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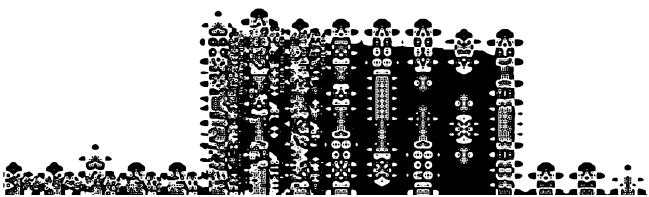
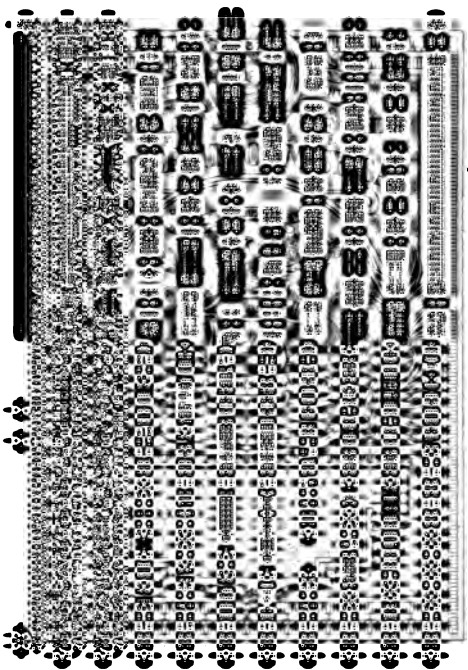
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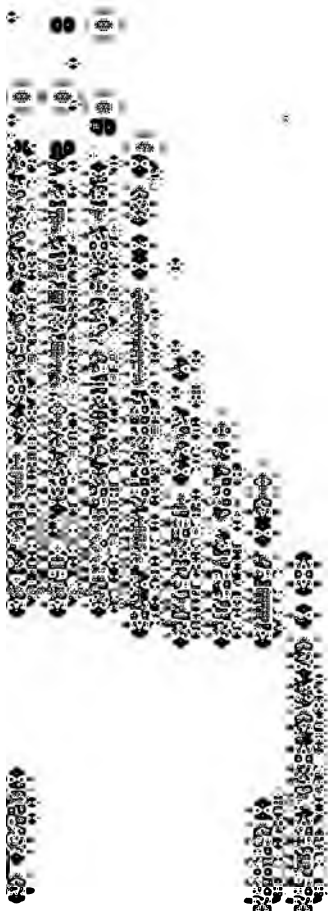
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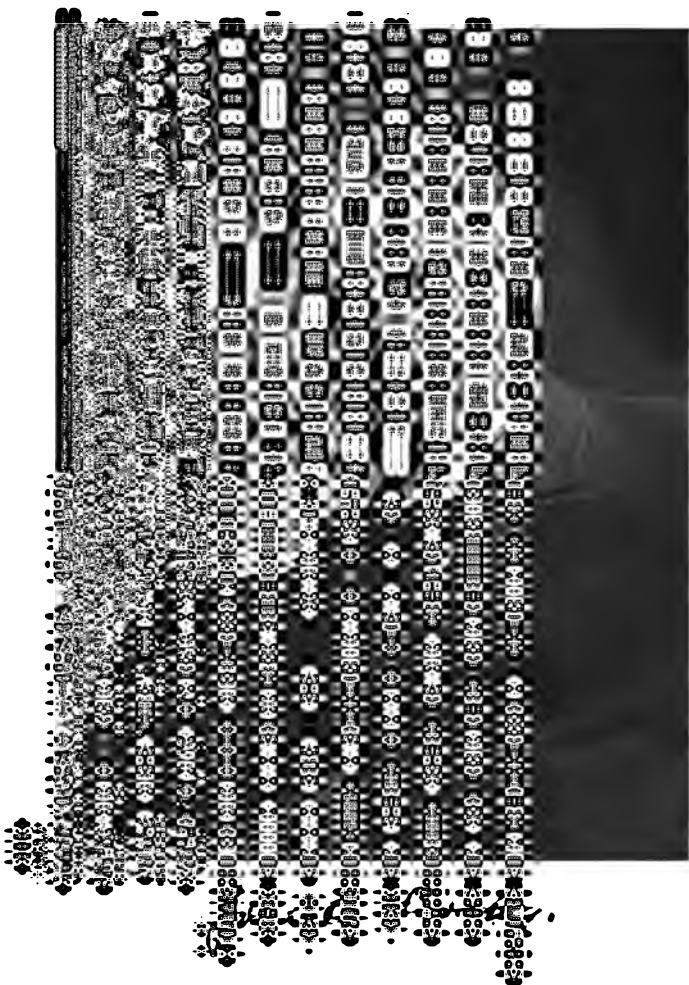
THE ORTHOCRATIC STATE



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MR. ROU



THE ORTHOCRATIC STATE

*THE UNCHANGING PRINCIPLES OF
CIVICS AND GOVERNMENT*

BY
JOHN SHERWIN CROSBY

New York
STURGIS & WALTON
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1915

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To

JOHN J. MURPHY, LAWSON PURDY,
CHARLES H. INGERSOLL

AND

WILLIAM LUSTGARTEN

But for whose kind offices it might not have
been published, this booklet is
affectionately dedicated, (in an
hour of physical darkness).

J. S. C.

PREFACE

There is no lack of books telling what government has been and is. This little volume may aid the student in his endeavour to determine for himself what it ought to be and to do, as well as what it ought not to undertake. There is perhaps no greater hindrance to civic progress than the impression that principles of government are too abstruse for common understanding, to which is often added the handicap of starting out in the study of government with a confident knowledge of "so much that isn't so," and of reasoning from maxims rather than axioms.

What we ought to do, whether as citizens or as men, in matters affecting our fellow men, is not a question of precedent but of principle, and is to be learned not so much from history as by use of that common sense upon which we rely in forming our judgments of history, whose lessons serve but to illustrate and confirm our perhaps innate ideas of right and wrong as between man and man. It was the deliberate conclusion of Im-

manuel Kant, as expressed in his "Critique of Pure Reason," that with regard to the essential interests of human nature the highest philosophy can achieve no more than that guidance which nature has vouchsafed even to the meanest understanding.

The political inquiry, whose methods and outcome are hereinafter briefly outlined, was first impelled by what seemed to be the importance, the justice even, of meeting the evidently serious contention of the Anarchists with something more intelligent and intelligible than mere denial, and was prosecuted with the endeavour to determine by what right, if any, the compulsory State is maintained; for if it has no right to be, it can have no right to act. Nor was answer to the question readily to be found. In no treatise on government, in no declaration of sovereign authority, although much was often taken for granted, was it clearly shown by what right any majority can compel an unwilling and otherwise unoffending minority to unite with them in organising and maintaining the State, or with what justice any man not desiring to co-operate in its maintenance, not asking its aid, and himself interfering with no man's freedom, can be forcibly compelled to be-

come a supporting member of it, and, to that extent at least, responsible for its action. There were other questions calling for definite answer, among which was that raised by the Socialists, as to how far the State may justly go in assuming control of the means and methods of wealth production. Conclusions resulting from such inquiry, finally reached a generation or more ago and but confirmed by the experience, observation and reflection of subsequent years, are now submitted, not as presenting anything entirely new in political thought, but as suggesting the importance of much that, however familiar to that thought, is almost entirely overlooked in political action.

Brief as they are, the chapters following will be found to contain an orderly exposition of what are believed to be the basic principles of government; a definite outline, simple analysis, and serviceable classification of its legitimate functions; as well as a summary of present-day abuses of its power, and of problems resulting therefrom. The reader's attention is respectfully directed to the consideration given to the doctrine of natural rights, to the question of absolute right to maintain the compulsory State, and to the limits of its

authority; to the distinction made between things, functions and values in their nature individual and private, and those which are no less naturally social or public; to the relation shown to exist between corporations and the trusts; as well as to suggestions in regard to solving problems of government.

In so far as it has yet to be filled in with the actuality of practice, the outline presented is of necessity a mere theory, a purely abstract conception of what may or may not be realised, as at one time or another might have been as truly said of any and every most approved theory now in practice. But we need not wait on practice to know this much, that in so far as a theory of government ignores basic principles of justice as between man and man, it will ultimately fail in practice. History has nowhere contradicted this categorically imperative, *a priori* conclusion.

Justice and freedom, its object and complement, are but abstractions, toward the realisation of which the race seems to be surely if slowly advancing. The only conception of justice with which the State has any proper concern is that arising from consideration of man's conduct toward man. As said by an able political writer

and now distinguished statesman, in his admirable text-book "The State," "Government, in its last analysis, is organised force." It is, moreover, always a force exerted by man upon man, and its justice depends on how it affects individual enjoyment of the natural, inalienable rights of man. Once it wrongs the individual, it has begun its injury to Society, which can suffer only through its members. In order to determine whether an act of government is or would be unjust or not, it is necessary to inquire what would be its nature, whether it would be unjust toward any human being, if performed without civil authority; for that which would be harmful and unjust if done by an individual or a mob, can be neither harmless nor just when done by the State. If such question is not to be answered, it is idle to talk of civic righteousness, of good government, or of an orthocratic, or rightly governing State.

J. S. C.

New York, 1913.

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THE ORTHOCRATIC STATE

THE ORTHOCRATIC STATE

CHAPTER I

INTRODUCTION

OF all the useful arts that of government alone, although so long and universally practised, is yet without its kindred science. Practice of the other arts has in each instance led to the discovery and systematic arrangement of the principles, to development of the science, upon which correct practice depends. Not so with government. The "Politics" of Aristotle is a work quite as scientific as any most modern treatise on government.

Different reasons may be assigned for the slow progress of the art of government toward the scientific stage. One obstacle has been the persistent opposition of the governing classes to even the discussion of new political theories, lest their adoption might interfere with existing privileges; but this attitude of the privileged classes will

hardly account for the continued acceptance of unscientific theories by political writers of undoubted ability, sincerity and courage. These all agree in holding with Aristotle that justice is the end of political science, and then like him attempt to develop the science from hypotheses as fanciful as was that of the vortices from which the early astronomers sought to construct their science.

It is, of course, impossible to develop a true, scientific theory of government from a false hypothesis regarding a matter so fundamentally vital as the nature of the State and the seat or source of its authority to govern. Aristotle supposed the State to be "one of the works of nature," and held that the supreme power should be exercised by men of pre-eminent and heroic virtue, "if such be found." A somewhat similar misconception of the State has been that of those who have regarded it as a department or bureau, as it were, of an all-embracing theocratic government, and as existing and governing by divine authority. When it came to be realised that government, including the formation of the State as well as the maintenance and exercise of its power, is made up of activities as human as any in which mankind engages and as subject as any to the human will,

it was sought to account for existence of the State by supposing it to have been in some way established by and according to the will of man, and in order to preserve the idea of justice, the establishment was assumed to have been by general agreement or common consent of all men.

The hypothesis of a social compact was stated by Hobbes in his "Leviathan" as follows:

"A commonwealth is said to be instituted when a multitude of men do agree and covenant, every one with every one, that to whatever man or assembly of men shall be given by the major part the right to present the person of them all, that is to say, to be their representative; every one, as well he that voted for it as he that voted against it, shall authorise all the actions and judgments of that man or assembly of men in the same manner as if they were his own, to the end to live peaceably amongst themselves and be protected against other men.

"From this institution of a commonwealth are derived all the rights and faculties of him or them on whom sovereign power is conferred by the consent of the people assembled."

Locke, writing but a few years after Hobbes, stated the hypothesis as follows:

“Whosoever, therefore, out of a state of nature unite into a community, must be understood to give up all the power necessary to the ends for which they unite into society to the majority of the community, unless they expressly agreed on any number greater than the majority. And this is done by barely agreeing to unite into one political society, which is all the compact that is or needs be between the individuals that enter into or make up a commonwealth. And thus that which begins and actually constitutes any political society is nothing but the consent of any number of freemen, capable of majority, to unite and incorporate into such society. And thus that, and that only, which did or could give beginning to any lawful government in the world.”

He also held that a man's tacit consent to an established government was to be inferred from the mere fact of his being within its dominions.

Rousseau nearly a century after Locke wrote as follows:

“If therefore we take from the social contract everything that is not essential to it, we shall find it reduced to the following terms: ‘We, the contracting parties, do jointly and severally submit our persons and abilities to the supreme direction

of the general will of all; and in a collective body receive each member into that body as an indivisible part of the whole.' ”

He held further that, although the clauses of the contract may perhaps never have been formally promulgated, they are yet universally the same, and everywhere tacitly acknowledged and received.

The statement in the preamble to the Declaration of Independence to the effect that governments derive their just powers “from the consent of the governed,” has been regarded by some as recognising the social contract, but it is not probable that Jefferson meant to assert anything more than that the governed should always have a voice in the government. He had in mind the imposition upon the American people of laws passed by a parliament in which they had no representation.

Writers of the present day, in attempting to account for authority of the State, seldom if ever resort to the fiction of a social contract. Recognising the absurdity of assuming that each member of society gives his individual consent to organisation of the State, they assume it to have been organised by the people, but by the people

acting in some other than their individual capacity and by some right, if any, other than individual, natural right.

One able and learned author, writing on "The Nature of the State," states his conclusions as follows:

"It therefore appears that the origin of the State must be conceived as an act of the People rather than of individuals. The existence of a common or 'General Will' must be predicated, and the creation of the State held to be due to its volition." . . .

"The existence of the State is rationally justified because the result of the exercise of its authority is in all cases, as a matter of fact, to preserve freedom rather than to destroy it." . . .

"There is no onus upon the State to justify its existence as an infringement upon a predicated natural freedom of the individual."

It is not readily to be seen how a practical science of government can be developed from this latest hypothesis, that of a "predicated" General Will. Government can be nothing more nor less than human power humanly organised for the control of human conduct. The very organisation of that power, the act of instituting the State,

is merely human conduct, which in its last analysis is always either right or wrong, just or unjust, as between man and man. No man can justify his voluntary acts by any appeal to the general will. That will can never be more than the concurring wills of all the people. Whenever it calls for forcible control of any of the people, it is clear that their wills are not in accord with the general, and that they have only to outnumber their opponents to have a general will of their own. For all the practical purposes of government, including that of establishing the State, the general will can manifest itself only as the will of a majority in numbers or power, and whether it be just or not must depend upon the wills of the individuals composing such majority.

Authority for establishment and maintenance of the compulsory State has been challenged by individual wills as sincere as any composing the general will, and their challenge is not to be answered by any hypothesis regarding the just warrant for such establishment. It may not be clear to them that "the result of the exercise' of its (the State's) authority is in all cases, as a matter of fact, to preserve freedom rather than to destroy it." The struggle through all the ages has

been to preserve freedom from encroachments which could not have been maintained but for the State, and to-day there are many staunch believers in the authority of the State who nevertheless apprehend the danger of an unjust and tyrannical extension of its power over the industrial activities and private affairs of its members.

The people are fast waking to a sense of their "sovereign power," and, like the sovereigns of all time, are not unlikely to experiment with it. Notwithstanding any and all need of legislative reform, of which there may indeed be much, it might nevertheless be well for all legislation to cease for a time, provided the people would meanwhile try to learn by what right they legislate; to get a clear understanding of what the State really is; of the just and only warrant for its existence or for exercise of its power; of what it may justly do, and of what it ought to let alone. Nor is the acquirement of such an understanding by any means so difficult as might appear from reading laboured treatises on government. As was said by Aristotle, "The multitude even though they know nothing of the political science and hold no magistracy, still can form a good practical judgment upon government in general, and even a better

one than those in office who can not see their own defects and errors.”

In the chapters following, attempt is made not only to account for the well-warranted existence of the State, but also to point out the source and mark the limits of its authority, not from any hypothesis, but on grounds as plain, rational and substantial as any upon which human conduct can possibly be justified.

CHAPTER II

SOCIETY AND THE STATE

"Before Man made us citizens, great Nature made us men."

LOWELL.

Civics is that branch of ethics, or of the science of human duty, which treats of man's duty as a citizen, or member of the State. In order to understand our duties as citizens we must know what the State is, as well as why and how we came to be members of it. We all know in a general way that it is an association formed for the maintenance of that orderly regulation of human conduct and affairs which is called civil government, but we may not have sufficiently considered the nature and purpose of its authority to be fully alive to our individual responsibility for the exercise of its power.

Born into the already long-established State, we are prone to look upon its much-exploited power as having its existence in the nature of

things, and to utilise it as we do the forces of nature for any and every purpose to which it may seem adapted. Or, if we realise that it is human power contributed by and belonging to all the people in common, we may make the mistake of supposing that it may at least be used for any purpose to which the majority may choose to apply it.

It is true that in deciding what the action of an organised body of individuals shall be it is from the nature of things necessary for the will of the majority to prevail, but no majority can justly make use of any organisation for any other purpose than that for which it is formed and its power maintained. Even if the State were an association into which the people had all of them voluntarily entered and from which they could withdraw at will, its power could not be justly used for any other purpose than that for which it was contributed. Much less can civil power, attained and upheld as it is through that compulsory organisation which the State actually is and from which no member can withdraw, whatever the majority may do,—much less can power so acquired and maintained be justly used by any majority however great for any ultimate purpose

other than that which alone justifies the compulsion necessary to its support. Civil power is a sacred trust, one not voluntarily confided but arbitrarily assumed, and we can not be too scrupulous in the discharge of its obligations.

The first of civic duties is that of endeavouring to find out—each one for himself—in what they consist. To rely too confidently upon the opinion of others is to depend upon the accident of environment and association. Engaged as we are in what is called self-government but really in the government of one another, it is of the first importance, no less from altruistic than from self-regarding considerations, that each shall understand just what he is doing as well as by what warrant he does it. Nor is this primary duty of the citizen so difficult as may be supposed. If the principles of government were hard to understand, if they were indeed beyond the comprehension of people in general, there would be no just warrant for the maxim that every man is presumed to know the law, and little of promise would there be in government by the people.

Propositions hereinafter advanced are assumed to be statements of self-evident truth or of logical deduction therefrom, and are hence submitted for

the most part without argument or citation of authority. If a proposition seems to be untrue or unreasonable the reader will be slow to accept it on whatever authority, but before rejecting it he should be quite sure that he understands its meaning, which if at first obscure may become clear in the light of subsequent statement.

In order to understand what the State actually is, in what its authority consists, what its legitimate functions are, as well as what constitutes abuse of its power, we must know in what way, for what purpose, and by what just warrant it is established and maintained. The State is not to be confounded with Society. The two associations comprise the same individual membership and occupy one and the same territory, but they are not identical.

By Society is meant that natural, uncontrived association into which mankind are unconsciously brought and in which they are ever held by immutable conditions of a common existence upon the earth. Society as such has no organisation, no common will or concert of action, no legislatures nor courts of justice, no authority and no persons in authority over it, no duties and no laws other than those imposed upon all human beings

alike by reason of the relations which they naturally sustain to one another and to the earth. Its members as such act individually or in voluntarily associated groups, each enforcing as judge in his own case as best he may whatever judgment he wills. Society has no welfare other than that of the individuals composing it, and can not be wronged except as they wrong one another, which they may do as members of Society merely, or as members of the State and through its agency, that is, through government.

The State, on the other hand, is an artificial, organised association formed by the power and according to the will of man. The members of Society are by that power alone compelled to become and remain members also of the State, and to conform to its regulations. The State formulates, promulgates and enforces laws or rules for the guidance of its members in their conduct toward one another, and also performs all services of a public nature, that is, such as are necessary to an equitable public order and can not be performed without public, or civil, authority. The State does not subvert or supersede Society, but coexists with that pre-existent, indissoluble association of mankind, to whose irrevocable laws they are no

less subject as citizens or members of the State than as members of Society.

The State has to do with conduct. Its object is to control conduct. All its deliberations and acts are directed to that end. It prescribes this and prohibits that particular conduct, resorting to force when necessary to compel obedience to its commands. Moreover, since no act of the State can be more or other than that of individuals composing it, its will being but the will of man and its power but human, government itself, the action of the State, is always conduct, the conduct of man toward man.

It follows that conduct must constitute the subject-matter of a science of government, and that all questions regarding the State, whether they relate to its organisation and maintenance, to the nature, purpose and extent of its authority, or to exercise of its power, are to be considered and answered with reference to principles of human conduct.

The justice of any first step toward organisation of the State or the establishment of government, must of necessity depend upon principles existing at the time the step is taken, and no taking of such step or of the greatest number of sub-

sequent steps, can change those principles or create new ones. It is, therefore, upon principles existing in the nature of things, upon the natural laws of Society, that the State must depend for whatever warrant there may be for its existence or for exercise of its power. In other words, the relations which men by the nature of their being sustain to one another and to the earth and upon whose integrity they depend for the preservation and normal development of that being, precede any organisation of the State, and no action of the State, no government however long continued, can change those relations or relieve any human being from the obligations which they impose upon every member of Society. But for such obligations and the possibility of their disregard, there would be no criterion by which to judge the conduct of man toward man, no principles by which to be guided in any individual or collective attempt to control it; in short, no just warrant or authority for forcible interference with human conduct, whether by government or otherwise.

It follows that inquiry into the nature and functions of the State involves consideration of the principles by which men should be guided in their conduct toward one another as members of Society,

that natural, unorganised association, which, as already seen, precedes and must be distinguished from the artificial organisation comprising the same individual membership and known as the State.

Principles of conduct as between man and man are merely general rules of action which it is the duty of human beings to observe toward one another. A duty always implies something due or owed from or by one person to another, but it is evident that if one owes anything to another it is because the latter may demand it as a right, and that there can be no duty without a correlative right. It necessarily follows that principles of duty as between man and man, the natural laws of human conduct, depend upon certain no less natural rights of man.

The natural rights of man, which are indeed his only rights, are not, as they are sometimes slightly characterised, mere metaphysical conceptions, visionary conceits of the imagination, but actual, necessary physical conditions of normal human existence, as easily perceptible to the bodily senses as any most palpable entities. We take cognisance of them whenever we say of any man, as we often instinctively do, that he is "all

right," meaning thereby that the conditions in mind have not been impaired. To doubt the reality of such natural conditions, or to question the propriety of calling them rights, is the hyper-metaphysical illusion against which to guard, for they constitute the only demonstrable basis for a standard of right and wrong as between man and man. Without rights, men could not wrong one another.

Natural, human rights consist in the essential relations of man to the earth and to his fellow men, and have their sanction in the universal instinct of self-preservation. They are to a science of conduct, and hence to a science of government, what the axioms of mathematics are to a science of quantity. If man had no natural rights he could not have any rights whatever, for he would have no right to acquire or possess any. If he had no natural rights, he would have no right to establish the State, and whatever government he might maintain, being without natural, human right, would of necessity be either by supernatural, divine right, or without any right whatever.

A right, as commonly understood and defined, is that, whatever it may be, to which one is justly entitled, and if it exists in the nature of things

it may well be termed a natural right. The natural condition or physical relation of being alive would surely seem to be one which every human being is entitled to maintain as against the effort or intent of any other to deprive him of it. Certain it is that if the validity of any man's title to life is to be contested the burden devolves upon those who dispute it and who in order to prevail must show better title than his. But what title to the life of another shall they assert who, by denying the existence of natural rights, virtually disclaim any right or title to their own? The right to life is not only natural but inherent and inalienable, it being impossible to conceive of its transfer, or of any man's becoming possessed of or entitled to the life of another.

Moreover, since that would be a right in name only which did not involve and carry with it the right of enjoyment, it follows that if man has a right to life he must also have the right to enjoy whatever nature has established or provided for the support or happiness of life, that is, freedom from interference by any other man or men with his enjoyment of whatever has been so established or provided. Man's right to maintain his natural relation to the earth and to his fellow men, as

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against the effort of any other to deprive him of such freedom, is called the right to liberty, which being essential to the inalienable right to life is therefore itself inalienable.

As the right to life involves the right to liberty, so does the latter right include among others certain relations of such importance as to be themselves also denominated rights although included in the right to liberty. The relation of ownership which naturally obtains between every human being and the direct or indirect product of his labour is called the right of property, that is, the right of proprietorship and control over such product, which is itself termed his property, or wealth. The relation which one naturally sustains to his fellow men with respect to the exchange of labour or property is called the right of contract, which includes the natural freedom of every human being to exchange his labour or property for the labour or labour-products of any and every other willing to make the exchange, in the natural market, a market consisting in the unrestricted competition of unprivileged natural persons only.

It is of course understood that the right to life includes security from bodily harm, and that the

right to liberty embraces not only freedom from physical restraint, from manacles, fetters and prison walls, but freedom of location and of locomotion, that is, the freedom of every human being to be and to go wherever he will, as well as freedom to embrace and enjoy whatever opportunities nature affords for the support and happiness of life, and to make whatever use of them seems to him best, provided always that he does not interfere with the equal freedom of any other human being; also freedom of thought, speech and action, from verbal abuse and from injury to reputation.

Clearer conception of what is meant by a natural right may perhaps be had by conceiving of a man alone upon the earth. He would depend for existence upon his ability to utilise natural opportunities for the support of life, but his natural freedom of action would hardly occur to him as a right, for there would be no one to question it or against whom to assert it. Upon the coming of never so many other men there would be no change in the first man's relation to the earth and no less necessity for freedom of action on his part, nor would their relation to the earth or their dependence upon individual freedom of action be different from his. And even then not until some

one or more of them interfered with the freedom of some other would it be conceived of as a right. The first conception would perhaps be that of an injury or wrong suffered by reason of such interference. It is not possible, however, to conceive of a wrong without a correlative right. One is wronged only when something to which he is justly entitled is as it were wrung from him. But for one to deprive another of life, or of any condition, relation or opportunity natural to its preservation or enjoyment, is to wrong the latter, that is, to wring from him that to which he is justly entitled as against effort of the former to deprive him of it, and which may therefore in the ordinary use of the word be termed a right, and, because existing in the nature of things, a natural right.

In the exercise and enjoyment of his natural rights, it is evident that every man is primarily dependent upon his own judgment. His physical powers are naturally the servitors of his own mind and not of the will of any other man. Alone upon the earth he must of necessity be guided by his own understanding, nor is there any reason in the nature of things why after the coming of another man either of them should abandon his own judgment or submit his conduct to control of the

other, so long as neither interferes with the natural autonomy of the other. Attempt by one forcibly to control conduct of the other, might show which was for the time the stronger or more crafty, but could in no event determine anything as to rightness of conduct.

It is therefore clear that the fundamental, universal principle of human conduct, the general rule by which mankind should be guided in all their actions affecting one another, is simply this:—that no human being should interfere with or infringe upon any natural right of another. It is also clear that so long as a man observes this rule his conduct can not justly be subjected to forcible control by any other man.

It is no less clear, however, that, whenever one man, disregarding this rule, attempts to interfere with another's enjoyment of any natural right, the latter may justly defend himself against such aggression, for the former has no right so to interfere and therefore is not wronged by being even forcibly prevented.

The right to defend one's self is natural, as all rights indeed are, but it is secondary or subsidiary in that it never arises or comes into play except when necessary to prevent infringement of some

one or more of the rights of life, liberty, property and contract, which may for distinction be termed primary natural rights. This subsidiary natural right, known as the right of self-defence, is called the first law of nature, and is indeed the first and only law or principle by virtue of which any one man can justly exercise forcible control over conduct of another.

Inquiry may next be made as to whether several or any greatest number of men acting collectively for forcible control of conduct are to be guided by the same principle as when acting individually and independently of one another, or whether with increase in the number of those undertaking such control there arise additional or modified principles or rules of action in that regard.

It has been seen that of two men, one, the second for instance, has no right to interfere with conduct of the first except in self-defence; nor can he have other or greater right simply by reason of the presence or co-operation of a third man. Since neither the second nor third has any right of control over the first except in self-defence, they can not both together have any except in defence of one or both of them. If the first infringes any right of either the second or third they may justly

co-operate to prevent such aggression, but so long as he does not attempt so to infringe they are each in duty bound not to interfere with his conduct. Let the number of men be increased to whatever extent, so long as the first infringes no natural right of any one of the others, they can not collectively or all together have any right to interfere with or forcibly to control his conduct.

The only just warrant, then, for either individual or collective action for forcible control of any man's conduct, is the natural, individual right of self-defence, which arises only upon infringement of some primary natural right, and may then be exercised as justly by one over many as by them over him, the right of control depending in no way or degree upon the number of those assuming to exercise it, but solely upon the individual self-defensive right of some one or more of them.

It follows that the right to govern, the authority to establish the State, and to maintain and exercise civil power, is and can be nothing more or other than the natural, individual right of self-defence; and it remains to inquire through what exercise of that right it is that all persons, even those not interfering with any natural right of

anybody and perhaps not caring themselves to resist aggression, may be compelled to unite with others in support of government.

If the State were a wholly voluntary association which one might enter and leave at will, warrant for its existence would not be hard to find, for it is clear that all the members of Society would have the right voluntarily to unite and co-operate for the defence of each and all against the fraud or violence of any. Some such unanimous action is implied in the theory that government is founded on social contract, but no such action has ever been taken. Question as to whether they preferred to maintain or to do entirely without government was never yet submitted to all the people of any considerable territory, and there are those who contend that there ought not to be any government by force, and who have never voluntarily consented to any. The State is essentially a compulsory association of which all the people within the territory of its jurisdiction are forced to become and remain supporting members, however much against their inclination; and, as already seen, the question first to be answered is:—By what just warrant can any man be compelled by others to unite with

them in support of the State and in the exercise of its power?

If the ultimate object or moving purpose in organising the State were to protect individuals from the fraud or violence, the intentional aggressions of other individuals, no number of men, no majority however great, would have any right or authority to compel any man to co-operate with them to that end. Their only right to combine for such purpose would consist in the individual right of self-defence, a right, however, which belongs to him as well as to them, and by virtue of which he might well decline so to co-operate, on the ground that according to his judgment he could thereby best defend himself. In other words, any man in the exercise of his right of self-defence may justly decline aid in the defence of others. Even if one recognised the necessity of combination with others for purposes of self-defence, he might well prefer to unite with an organisation of his own choosing if not of his own forming. No man or number of men have any right to dictate to any man how he shall defend himself, so long as in so doing he does not infringe upon any natural right of any man.

On the other hand, however, if one man in de-

fending himself against another thereby interferes with any natural right of still another, the last may justly defend himself against such interference however unintentional; and it will be found upon further consideration that it is the necessity for providing efficient defence against such interference, against unintentional aggressions arising from individual self-defensive disturbance of public peace and order, that constitutes the primary and only just warrant for the compulsion essential to the establishment of the State and the maintenance of civil power.

In Society without government the settlement of differences between individuals would be left to those personally interested, nor, as already seen, would the mere fact that one or more were suffering wrong at the hands of others warrant any majority in compelling the smallest minority to aid in preventing such wrong. Sooner or later, however, it would be found that unrestrained, unregulated exercise of the right of self-defence by everybody is incompatible with permanent enjoyment of natural rights by anybody. Disputes between individuals would so multiply, continue and extend, involving neighbours and neighbourhoods in the resulting strife, that tu-

mult and riot would overwhelm even those who had no differences of their own and whom no one desired to molest or intended to disturb. Those so peaceably disposed and so averse to strife as to suffer wrong rather than disturb the peace of others, would find their own peace destroyed and their property and lives endangered by the heedless violence of contending factions in whose controversies they had no personal concern.

It is clear that any individual, if he had the power, might justly defend himself against such blind aggressions of public disorder by compelling all persons to refrain from peace-disturbing self-defence, provided they were afforded as sure and complete defence as they were compelled to forego making each for himself. Nor is it any less clear that any number of individuals would have the right voluntarily to unite and co-operate for the same self-defensive purpose, and to organise themselves into an association for the maintenance of a just peace, an equitable public order, an order in which the peaceable enjoyment of natural rights is secured to all persons subject to its jurisdiction. It is evident, however, that if there should be at the same time more than one organisation attempting forcibly to maintain

same territorial half would be a very disturbing factor, resulting in the sort of an order of priority over all other claims to certain permanent order therein. No one who obeys the law of self-defence can be a part of any organisation which is required to defend itself as they defend themselves; and in any case to determine the defence must have been so organised in all its parts and reliable in its action unless its purpose was any and all other. We have time have to defend the territory of the state and stand aloof from any organisation, it is not so much the less

able to enforce obedience to its commands, its power so much less than supreme.

It is for such reason only and upon such ground alone that all the members of Society may justly be compelled to become and remain members also of the organisation known as the State, whose primary object and only authorising purpose is, not to force any man to aid in the defence of any other, but rather to compel all persons to refrain from peace-disturbing self-defence. The warrant for such compulsion consists not in the will or power of any majority but in the natural right of every human being to defend himself against the aggressions of public disorder, and to unite with others in doing whatever may be necessary to that end, provided that they thereby interfere with no man's enjoyment of any primary right, and that all are allowed to participate equally in that collective, orderly exercise of the subsidiary right of self-defence, which is substituted for peace-disturbing individual exercise thereof; in other words, that the peace and order maintained be just and equitable.

There is, then, no warrant for the oft-repeated dictum that man on entering the State thereby

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of the State is to be divided equally among its members, and the territory not included in the additional territory shall be divided equally among the members thereof become entitled to the same, and the territory so divided with an equal

The State may be defined as that organised association into which the people of a definite territory are compulsorily incorporated for the solely self-defensive purpose of maintaining peace and an equitable public order therein, and through whose agency is effected that enforced regulation of human conduct and affairs which constitutes civil government.

CHAPTER III

THE FUNCTIONS OF GOVERNMENT

"Governments may be corrupted and public misfortunes induced by the failure to assume, as governmental, functions that properly belong to government,—as well as from interferences by government in the proper sphere of individual action."

HENRY GEORGE.

IN considering the functions of government, the uses to which the power of the State may be put in order to effect the purpose of its organisation in no way affect the rights of any individual or of the people as a whole, except as it wisely secures or ignorantly interferes with their enjoyment. As citizens, or members of the State, the people have no greater or other right to interfere with the conduct of any man than they have as members of Society merely. What they gain in that regard through organisation of the State, is simply the power to do that which they individually had and have the right to do but

lack the power of doing, namely, to maintain through exercise of the right of self-defence the public peace and order necessary to enjoyment of their natural rights. It is, moreover, evident that, since no majority can justly compel any man to do what it would be unjust for him to do of his own volition merely, the State can not justly do that which would be unjust if done by an individual acting of his own accord and without civil authority. It should, however, be at the same time observed that, because it may do nothing that the individual may not do, it by no means follows that the State may do everything and all that individuals may justly do. By reason of the compulsory method of its organisation and support it can justly do only such things as any one of its members having the power might rightly compel the others to do, namely, whatever is essential to self-defensive maintenance of a just peace and an equitable public order. Distinction should ever be made between civil power and civil authority. The State must of necessity have the power, or ability to do much that it has and can have no authority, or right to do.

It has already been seen that in order to maintain a just peace the State must not only adopt

such measures as may be necessary to direct, immediate preservation of the peace, but must also secure its members individually against infringement of their primary natural rights by other individuals, security from such infringement being essential not only to the permanence but also to the justice of any peace maintained. An unjust peace will sooner or later be disturbed, the sooner the better for all concerned. The State must also of necessity perform either directly or indirectly all services of a public nature, that is, such as are essential to an equitable public order and can not be performed without exercise of public, or civil authority. It must also do whatever is necessary to a just maintenance of its own integrity and supreme power. The various activities necessary to accomplishment of these four distinct objects constitute the only legitimate functions of government.

The different activities of the State all have one and the same ultimate and only authorising purpose, namely, the maintenance of peace and an equitable public order, but, for convenience of treatment, they may be classified according to their respective direct, immediate objects. Those activities which have the preservation of peace

and order for their immediate object, as well as for their ultimate and only purpose, may be said to constitute the Peace-preserving function of government; those whose immediate object is to secure individuals against infringement of their natural rights by other individuals, constitute what may be called the Right-preserving function; those which have the performance of some public service for their immediate purpose belong to the Public-serving function; while those whose direct object is to maintain the integrity and supreme power of the State itself fall within the Self-preserving function.

All the legitimate uses of civil power are included in the above named four and only functions of government. Different classification would in no way affect the activities to be considered. A single activity may serve more than one governmental purpose and so fall within more than one of such functions, but it can not be legitimate, a proper exercise of civil power, unless it be necessary to performance of one or more of them. To use that power for accomplishment of any other purpose however desirable is to abuse it.

In the discharge of its first, or Peace-preserving function, the State prescribes and enforces regu-

lations whose direct and only object is to maintain peace and public order. This function is exercised largely in direct and timely prevention of peace-disturbing self-defence, conduct commonly characterised as taking the law into one's own hands, that is, doing for one's self that which the State for the sake of peace and order undertakes to do for him. It has been seen that the State can not justly prevent exercise of any primary right, but that peace-disturbing exercise of the subsidiary right of self-defence may be prohibited in cases where adequate protection is provided for the person foregoing such exercise. For instance, if property be stolen or unjustly detained or premises be wrongfully occupied, the person injured has an undoubted self-defensive right to use force if necessary in retaking such property or possession of such premises; but the State for the sake of public order forbids the use of peace-disturbing force for such purpose and subjects whoever uses it to penalties imposed in the discharge of its Peace-preserving function. In order, however, to insure uniform and prompt obedience to its peace-preserving regulation as well as in justice to him who observes it, the State makes provision for peaceable restoration of the property

or premises through exercise of its Right-preserving function. As already suggested, however, in case of direct aggression upon one's person, property or premises, he may make such forcible resistance as may be necessary to that immediate defence which from the circumstances of the case the State is unable to provide.

The Peace-preserving function is also exercised in regulating conduct in public places and thoroughfares wherever conditions are such that lack of regulation would result in public disorder; requiring, for instance, that vehicles shall keep to the right or to the left, as the rule may be, or that they shall avoid certain thoroughfares altogether.

Care should of course be taken in the discharge of this function, as well as of every other, not to interfere with or infringe upon any primary natural right, to the end that the peace maintained may be always just and equitable.

The second, or Right-preserving function, embraces whatever is to be done by the State for direct protection of individuals from the aggressions, the fraud or intentional violence of other individuals. It is sometimes loosely said that Society owes such protection to its members. It is true that they are each in duty bound to refrain

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ration as far as practicable to be made for their wilful or negligent infringement. It also provides for equitable adjustment of controversies arising out of contract, sometimes by enforcing performance, sometimes by the award of damages, as well as by providing for the collection of debts. State regulation of marriage and divorce has its warrant in the necessity for securing the natural rights of the persons interested, including children of the parties to the marriage contract, to which the State is, however, no more a party than to any other private contract.

The State can not justly lend its power to purposes of revenge, retaliation being foreign to the functions of government, which has properly nothing to do with so-called retributive justice. Penalties imposed by the State can have but one legitimate object, the self-defensive purpose of rendering the enjoyment of natural rights more secure than it would be without such penalties. The penalty most likely to promote general security of those rights from individual aggression is evidently whatever one is best calculated to render all persons, especially those upon whom it is inflicted, less inclined to aggression. Experience has shown what reason teaches, that men are

deterred from crime not so much by the severity of ultimate punishment as by the certainty of immediate restraint. It is also known that brutal and degrading punishments, not only fail to improve the character of those upon whom they are inflicted, but also tend to brutalise and degrade a people that inflicts them. In fixing the penalty for any offence however heinous, care should be taken not to subject the offender to any treatment tending to lessen his or any other man's self-respect or regard for the rights of others. In all its acts the State should as by example endeavour to strengthen rather than weaken popular sense of the sanctity of human rights, and ought never to countenance the fiction of their forfeiture to Society or to the State, for they are inalienable.

Like offences by whomsoever committed should be visited with like penalties. There should, for instance, be no imprisonment of any for offences to be atoned for by others in a different way, as by payment of a fine. The payment of money should never be exacted as a deterrent penalty, but only in reparation for an injury or in satisfaction of a just claim. The luxury of disobeying the law should be beyond the means of any citizen however wealthy. Reparation for an in-

jury incident to a criminal offence should always be separate and distinct from any deterrent penalty imposed, and the damages awarded should be collected like any other indebtedness. Provision for the collection of debts that the debtor is able but unwilling to pay, has its warrant if any in the rights of property and contract. If two men enter into a contract, and one of them after receiving value thereunder refuses to perform his part of the contract, he is of course justly indebted to the other, who has a natural right to recover from him, if he has it, the value so received. The State, however, for the sake of peace forbids disorderly recovery and is therefore in justice bound to provide for peaceable restitution, the object being, not to insure any one against the ordinary, voluntarily assumed hazards of trade, but to compel payment whenever refusal to pay evidences the intentional wrong of withholding that which belongs to another.

The activities of the first and second functions of government are seen to be of a somewhat negative and restrictive character, their immediate purpose being to prevent interference with the enjoyment of natural rights. Those of the third, or Public-serving function, on the other hand, will

be found to have the more constructive purpose of providing facilities for such enjoyment, their direct object being to render positively helpful services, necessary to an equitable public order, but exceeding the compass of unprivileged private enterprise, such services being termed public in contradistinction to such as can be rendered by private persons without civil authority. All human services and functions are in the nature of things either private or public; that is, they either can or can not be performed by unprivileged natural persons. There are no quasi-public functions.

The performance of private services can not be undertaken by the State without thereby unjustly interfering with the natural right of individuals to render them. By virtue of the right of contract every human being is entitled to a natural market in which to offer whatever services he may be able to render his fellow men. It is mainly through exchange of such services that the labour-made necessities and comforts of life are produced and enjoyed. If the State were to enter the competitive field the natural market for exchange of services, and with it all economic freedom, would be utterly destroyed.

On the other hand, since in the rendering of public services there is no natural competition possible, that is, since they can not be rendered by unprivileged natural persons, their performance by the State involves no interference with natural rights. It is, however, a serious interference with those rights for the State to farm out or entrust to private persons the performance of any public service. To the persons so privileged advantages are thereby given as unnatural and unjust and as eagerly sought as any arising from the bestowal of rank and title, advantages which can not be given to the few except to the disadvantage of the many. The State can not justly lend to or share with any part of the people any portion however small of that power which it holds in its corporate capacity for the common benefit of all. It should mind its own business and have no partners.

The first in time and importance of services distinctly public are those which are rendered in regulating the occupancy and facilitating the use of its territory by the people of the State. All the members of Society, by virtue of their common relation to the earth and of their equal right to liberty, have one and the same inalienable

right to occupy and use land necessary and natural to their individual support and happiness, the right of location. Disputes in regard to the location or extent of holdings for such purpose would naturally be among the first of those disturbances of the peace which render government necessary. In order to maintain peace the State must prescribe uniform terms and conditions upon which it undertakes to secure individuals in exclusive, permanent and undisturbed possession of their respective holdings. Those terms should of course be just and equitable, giving no man any advantage over any other and securing to all alike their equal, natural, right to the earth. Unjust and most inequitable would be a peace maintained on any other terms, upon terms, for instance, allowing any greater or less number of persons to appropriate more than an equitable share of the land or of its values.

It is, however, not in the nature of things possible so to apportion the territory of the State that all shall enjoy exclusive individual possession of equal areas of equally valuable land or of equally valuable holdings of whatever land. Land cannot be so divided, nor can the enjoyment of equal rights to land be secured by any mere

allotment of it; lands so differ in value, some having no value at all, that they are not susceptible of equitable distribution in kind.

Those who occupy land having no value, the least desirable in use, enjoy thereby no economic advantage over any of their fellow men, for such land yields no return beyond the wages and interest of any labour and capital expended upon it, the holder realising therefrom only what he earns. On the other hand, those who hold valuable land do enjoy such advantage, for the returns from such land exceed the mere wages and interest of the labour and capital spent upon it, the excess being in proportion to the value of the land, of which it is indeed the cause. To the extent of such excess the holder of the land receives a value which he does not earn, and which does not belong to him in particular any more than does the land from which it is derived. The State by securing him in the exclusive possession and control of such land enables him not only to appropriate as he should the values answering to the wages and interest of the labour and capital expended on it, but also to receive into his possession the excess, or ground rent arising from superiority of location.

Bearing in mind that the use of the earth at any time belongs to the people then living upon it, and that they are equally entitled not only to occupy and use it, but also to share alike in the economic advantages arising from the possession of superior locations, or valuable land, one having as much right to such possession as another, it is clear that land values are social; that they belong to no particular individual or class of individuals but to the people collectively; and that the only way for all to enjoy their equal rights to land, is for each to account for and pay over to all, to the public, the value if any of whatever occupancy of it he is by the State enabled to maintain to the exclusion of others. To require such payment would not only secure equal participation by all in advantages arising from the use of valuable land, but would also insure equal opportunity for all to occupy and use land whether valuable or not, for when its values shall be no longer appropriated to private uses it will not be sought or held for speculation, but will in its natural and beneficent abundance become available for the equitable occupancy of any and all persons desiring to use it.

The system of land-holding maintained by the

State is as it were the ground in which its other institutions have their root and of whose elemental character they necessarily partake, the injustice of an inequitable system being so broadly fundamental and all-pervasive that no public institution, no governmental function, no private interest nor personal relation, industrial or social, can fail to be injuriously affected thereby.

Complementary to the service which the State renders in adopting and maintaining a system of land tenure for private purposes, is that of regulating and facilitating public or common uses of land. Every human being has not only a natural right to exclusive possession of land essential to his abode and self-employment, the right of location, but also the right to go to and from one place to another, the right of locomotion, and it is necessary to peaceable exercise of the latter right as well as to undisturbed enjoyment of land held for permanent occupancy, that stretches of land convenient for the purpose be set apart over which one may pass to and fro without trespassing upon the private holdings of other persons. And since it would be impracticable to provide a separate right of way for each and every individual, the State establishes and maintains public thoroughfares for

the accommodation of all in common, as well as places for public assembly and recreation.

And not only is the establishment and maintenance of such highways a public service, but no less so is any and every necessary service requiring exclusive or monopolistic use of a highway, since such use can not be enjoyed without special authority of the State. To this class of services belong the construction and operation of railways, of telegraph and telephone lines, and of plants for general distribution of water, light, heat and power. The transportation of passengers and freight and the transmission of intelligence, in so far as they require monopolistic use of rights of way, are also public services, since they can not be rendered without special exercise of the authority and power of the State.

That the monopolistic use of a public highway or right of way for whatever purpose is a public use or service, appears further from the fact that, whenever the mistake is made of farming out any such service and authorising its performance by private persons, the State finds it necessary to supplement its authority by the loan of its power, which it does by creating an artificial person, the so-called public-service corporation. The State

has no right to create artificial persons, or corporations for any purpose whatever. Such exercise of its power is not only unnecessary to the discharge of any of its functions, and therefore *prima facie* a misuse of that power, but is also destructive of the natural market, which obtains among natural persons only.

Further indication that such services are public rather than private is to be seen in the necessity for State regulation of the charges, if any, to be made therefor, no such necessity ever existing in case of private services so long as rendered by unprivileged natural persons. The only way of ascertaining the just price of any service or commodity is through competition in a natural market. Such competition being impossible in the case of public services, which are necessarily and naturally monopolistic, there is no way justly to determine the price to be paid for their performance by private persons. If a charge is to be made for their performance by the State, it should of course not exceed the cost of the service, any greater charge so made being an arbitrary and unjust tax, as it also is, in so far as the State is concerned, when exacted by a public-service corporation.

Argument that this or that public service can be

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ment in support of the theory that government is unnecessary and therefore unjust, than that suggested by government itself, when it practically concedes that some of its most important functions can be better performed by private persons than by the State. The seeming force of the argument of course disappears when it is considered that in no instance can a really public service be rendered without authority and power derived from the State. Not only is that authority essential to the monopolistic control necessary to such service, but the public-service corporation, now so-called, is, as it was formerly wont to be termed, an arm of the State, without whose aid the service could not be rendered by private enterprise. Evils to be apprehended from direct exercise of its power by the State can not be greater than those arising from the grant or loan of it to private persons. The former, moreover, can be overcome by efficient government, but evils of the latter class will inevitably persist in spite of all that government can do, so long as it continues their causal abuse.

Another important public service is that of providing a circulating medium of exchange. In order to maintain itself and perform its other functions, the State calls upon individuals for com-

modities and services for which it pays value for value, expending for that purpose the public revenue which it collects from the people. Since neither payment for such commodities and services nor collection of such revenue can be effected through barter, the State adopts some more or less convenient medium of exchange to be accepted by individuals in payment of claims against the State, and also by the State in payment of its revenue. In order that it may be the more readily accepted, and also that it may be of service in the judicial settlement of disputes between individuals, the State provides that it shall be recognised as a measure of values and be receivable throughout the State in payment of all dues public and private, making it a legal-tender currency. This, like any other public service, should be performed by the State itself without intervention of private persons, natural or artificial, to the end that it may be just and equitable, affording no man any advantage over any other.

In the discharge of its Public-serving function, the State should also make whatever equitable general regulations may be necessary to protect the public against false weights and measures, impure foods, dangerous employments, unsanitary hous-

ing, fire, communicable disease, and any other evils against which the individual can not effectually guard, or, at least, not without disturbance of the peace. Much of present necessity for such regulations, including regulation of the hours of labour for men, women and children, as well as provision for support of the disemployed, will, however, disappear when natural opportunities for existence are secured to all, as they will be whenever the State, instead of making needless, ever-increasing and seemingly endless work for itself, shall limit the use of its power to efficient discharge of its legitimate functions.

The fourth, or Self-preserving function of government, embraces whatever has to be done by the State to maintain its integrity and supreme power, including whatever is necessary to its defence against insurrection from within or invasion from without. The surest defence against each of these dangers is to be found in a just and equitable administration by the State of its own affairs, which necessarily precludes any intermeddling with the affairs of other States. There can be little danger of dissension within a State where the enjoyment of natural rights is secured to all. It should be observed, moreover, that the State is organised to

secure that enjoyment within its own territory only, and has no legitimate concern in what may be done within or by other States, so long as its own peace is not necessarily disturbed thereby. If citizens of one State elect to invest their capital in territory of another or to lend it to another State, they can justly look for protection in their venture only to the State in which they have chosen to make it. The best and only legitimate way for a State to promote just government abroad is to maintain it at home, affording the oppressed of other States an asylum within its own territory. The State that really does this need fear no invasion, for it will grow stronger as others become weaker, by reason of the immigration it invites, and its example will sooner or later be followed by other States, if merely to keep their people at home, for it is only through exploitation of the many that the few can largely profit. Landlords might as well lose their land as to lose the people who labour on it, and capital even is profitable only when used as an adjunct to labour.

It is in the discharge of this function that the State is warranted if at all in making provision for compulsory education of its citizens. Such

provision is not necessary to immediate preservation of the peace; nor to direct prevention of the infringement of natural rights; nor is the education of the young a public service in the sense that it could not be performed by unprivileged natural persons. When the State shall efficiently discharge its legitimate functions, industrial and social conditions may perhaps be such that the people individually in their private capacity will as naturally and as surely make suitable provision for the education of their children as for the feeding, clothing and sheltering of them. The only valid reason there can be for a system of compulsory education by the State, is that under existing conditions, for which the State itself is more or less responsible, it may be necessary in order to insure the general intelligence essential to stability of popular government. To what extent and to what particular, intermediate ends the State should for that purpose assume control and direction of opportunities and methods for education, is a question worthy of more attention than it has yet received. No majority however learned can be wise enough to warrant its using the power of government to mould the opinions, or, Sparta-like, to shape the habits of a people.

That the maintenance of a compulsory system of education, however necessary it may seem under existing conditions, is not a normal activity of the State, appears from the difficulty encountered in attempting to maintain an efficient system without interfering with natural rights of both parent and child. Such a system would seem to require not only that the pupil shall be in regular, continuous attendance upon a more or less extended course of study calculated to make him an intelligent citizen, but also that he be in such attendance after his mind has become sufficiently mature to profit thereby, say, from twelve or fourteen to eighteen or twenty years of age. It is evident, however, that during those same years he must acquire if ever the skill and proficiency essential to efficient prosecution of whatever vocation he may afterwards follow, and that if he is required during those years to devote all his time to improvement of his mind he must necessarily go without the industrial training essential to efficient self-support in after life. Hence it is that the State vainly attempts to give him the required mental discipline while he is yet too young to profit, and may indeed be injured, by it, dismissing him from compulsory school attendance at about the time he

should begin it, if its purpose be to make him an intelligent citizen. And even if from voluntary attendance upon a secondary, or high-school course of study, provided for such as can afford to take it, he thereafter attains a certain intellectual discipline, it must be at the loss of a practical business training.

If the necessity for popular education be so imperative as to warrant the State in assuming the imperious and virtually exclusive control over the education of children which it now begins to exercise almost as soon as they are out of the cradle, it is at least pertinent to ask whether that so necessary end is to be accomplished by such arbitrary interference with parental prerogatives and such prison-like detention of those whose only offence is that they are children and too young to defend themselves. The scheme is too unnatural to be lasting, and the day will come when the State, in defence of the child and in the interest of rational education, will prohibit the doing of much that it now compels to be done. Under its present compulsory system of so-called education the State is acting more as nursery maid than as school-master.

State-enforced school attendance should not be

required of children until after they are at least twelve years of age, and then for one-half only of each day, in which to form habits of thinking, the other half being left open to employments in which to acquire habits of doing. Let a student, from the time he is twelve or fourteen until he is eighteen or twenty years of age, give but one half of each day to mental effort and the other half to some industrial pursuit, as long as, at that age, he should be continuously held to either task, resting alternately in the one from fatigue of the other, and coming fresh to each; and he will have not only a better intellectual development and equipment than one who even from an earlier age devotes the entire day to study, but also a practical acquaintance with business, which the other will necessarily lack, having been prevented from acquiring it at the proper time, that is, during the habit-forming age. The former, moreover, will have acquired none of that contempt for manual labour which continuous exclusive attendance upon school is wont to develop in minds it is fondly supposed to educate. He will also be likely to have formed lasting habits of industry both bodily and mental, together with some intelligent idea of his own vocational tastes and capabilities. Any

educational training enforced by the State should be the same for all, each being allowed to profit therefrom according to his ability, and that without having his perhaps more or less mediocre ability emphasised and stigmatised by the ostentatious conferring of invidious and needlessly discriminating honours upon those who happen to have greater natural ability. Any attempt by the State to prescribe for the child an educational training suited to some particular station in life officiously assumed to be his proper one, would be a long step toward his exclusion by government from any better station. The legitimate object of compulsory education by the State is, not to educate for this or that trade or profession or for any particular station in life, but so to develop and train the mind as to form the habit of correct thinking, especially in regard to matters of government, a habit quite as essential to good citizenship as that of saluting the flag, but demanding for its acquirement greater maturity of mind than is ordinarily possessed before the age at which most children now leave school.

In the discharge of its Self-preserving function it devolves upon the State to make equitable provision for defraying the expenses of government.

This has never yet been done, the history of taxation being a continued story of fiscal injustice.

The very generally accepted doctrine that the individual should be taxed according to his ability to pay, is of course inequitable unless he owes his ability to the State; nor is attempted practise of the theory any less iniquitous because those ostensibly so taxed generally shift the burden to those having less ability, with result that the people are in reality taxed not so much according to ability to pay as to their inability to avoid paying.

So unsuccessful have been all attempts in that direction that it has come to be regarded as impossible to devise an equitable system of taxation, it being said that nature gives no whisper about any taxes. Certain it is that there is not in the nature of things any principle or just warrant by virtue of which any man or majority of men, any State, can forcibly take or tax from any man that which he does not owe. Even if the State could devise some plan by which to compel every man to contribute to its revenue exactly the same amount as every other, it could in no case rightly enforce such contribution unless it was for some reason due and owing to that corporate body; nor as al-

ready suggested can it justly take from any man more than from others simply because he has more than they have. A public revenue is necessary to the support of government, but it must be a just one if government is to be just. If the collection of a just revenue be indeed impracticable, the Anarchists are right in their contention that all government by force is unjust.

The State is a self-defensive organisation in which all the people of its territory are entitled to equal membership, whose services should be for the equal benefit of all, and for whose expenses all are equally responsible and should therefore be equally assessed, if any assessment be necessary. More can not be justly exacted from any one member than from others except in payment for some advantage which the State enables him to enjoy over them, and then not as an assessment or tax, but as the value of the advantage, for which he should account regardless of any public expenses and of any assessments therefor. If the amount realised from payments so made should prove sufficient to defray all the expenses of government, it is clear that no assessments or taxes would be necessary. It has already been seen that individuals who are by the State enabled to

enjoy the advantages of holding valuable land ought to account to the public for their values. When the State shall require such accounting to be made and shall apply all such values to public uses there will be no need of any taxation, nor will there be any difference in amounts contributed by individuals to the support of government, since those values belong to the people in common. The distinction between services that are public and those that are private is not more marked than is that between public and private revenues. Land values constitute the natural revenues of the State. They could not be collected or even determined without the action of government, for without it there would be neither buyers nor sellers of land, and so no market in which to determine its values. The relation of landlord and tenant is neither natural nor primarily contractual but institutional, the landlord being a duly authorised collector of specific public revenues for which he should duly account.

In studying the functions of government it will be observed that considerations of expediency are never of themselves a sufficient warrant for exercise of its power; they are of weight in civic affairs only in deciding upon the best, the most

rational way of doing what justice between man and man requires to be done. It is not the business of the State to do good, or to make anybody good; to promote the greatest good of the greatest number, or, better still, even of the whole number; to promote this or that, be it industry, morality, progress, the socially useful, or whatever else; for even if such ends were really and directly attainable through government, they would not, desirable as they are, justify the compulsion necessary to its support. Nor can any human conception or forecast of what would be good or useful for mankind be taken as a guide, much less as a warrant, for civil action. Whatever the State may do toward promotion of the good or the useful will be incidental to rational government, to the maintenance of an equitable order in which men shall be free to be as good as they like, and to promote whatever they will, provided they do not interfere with that order.

The question whether any existing or proposed use of civil power is or would be legitimate, may always be determined by inquiring as to which one, if any, of the four functions of government it belongs, any action by the State not necessary to performance of some one or more of them being

of its power. It is disposed to maintain a rational government, and they shall be less nervous of its preserving functions. It shall be at the head of the nation in activities of self-preservation. It shall be necessarily orderly directed by the society of public opinion, and on the other to the tendency be- nevolent. It is a necessity for the government. On the other hand, the activities of the government are with increasing problems, those of public order; the civil authority; the reason also, the administrative of its power. It is, including its exchange, to-

gether with any necessarily monopolistic uses of those public utilities, will eventually constitute the principal activities of the State, all private business, enterprises and affairs being of course left to the unhampered conduct and control of unprivileged private persons and associations.

CHAPTER IV

ABUSES OF CIVIL POWER

"So I returned and considered all the oppressions that are done under the sun; and beheld the tears of such as were oppressed, . . . and on the side of their oppressors there was power."

BOOK OF ECCLESIASTES.

It having been seen what the State ought to do, and what is quite as important, that it ought not to do anything else, it should not be difficult at any time to determine whether it is in any way abusing its power. There are three ways in which the State can abuse its power; first, by neglecting to use it for a proper purpose; second, by using it in an improper manner although for a proper purpose; and third, by using it or permitting it to be used for an improper purpose. Abuses of the first kind are exceedingly rare, the tendency being to over-use of power. How often is it said that there ought to be a law, for this or for that, when the trouble really is that there already is too much law for this and for that. Abuses of the second class consist

in the use of irrational methods in the attempted discharge of legitimate functions. An abuse of the third class occurs whenever civil power is used for any purpose other than that of performing one or more of such functions.

Of the first kind of abuse no example will be given, for reason already suggested, that there is hardly any matter or interest susceptible to governmental interference that has not been made the subject of some sort of prohibitive, regulative or stimulative legislation.

Abuses of the second class are to be seen in attempts made to perform governmental functions by methods involving infringement of natural rights. For instance, the State abuses its power whenever, although for the purpose of maintaining public order, it suppresses free expression of individual opinion, however unpopular or incorrect it may be, lest it cause disturbance of the peace by opponents of such opinion. No man can be prevented from thinking his own thoughts, and whether they be right or wrong is not to be determined by majority rule. Whatever a man may think or say, he is not justly subject to interference by any other man or by the State, so long as he infringes no natural right of any man. Those

who deny the existence of natural rights may indeed seem to disclaim any right to express or even to have an opinion, but there can of course be no valid disclaimer of that which is inherent and inalienable. It is not any expression of opinion but forcible opposition to its expression that should be prohibited by the State, in the exercise not only of its Peace-preserving but also of its Right-preserving function. Freedom of speech and of the press is essential to enjoyment of the right to liberty, without which there can be no equitable public order.

A most irrational and unjust method of attempting to perform a legitimate function, that of securing the right to life, is to be seen in what is called capital punishment. It has been seen that the only legitimate purpose of any penalty imposed by the State is to provide greater security against the offence for which it is imposed. Security against repetition of the offence by any particular offender can be provided by his incarceration, nor has it ever been demonstrated that other possible offenders are to be deterred more by fear of the death penalty than by the more imminent and readily conceivable probability of imprisonment.

It is not easy for man to conceive of his own, personal mortality, or fully to realise that he is indeed himself ever to die even the death that he knows must sooner or later come to all; much less can any apprehension of a contingency rarely happening even to those incurring liability to it be so lively as to exert a controlling influence over his conduct in time of temptation. It is, moreover, at least an open question whether any deterrent influence the penalty may have in general is not more than counterbalanced by its inevitable tendency to weaken popular sense of and regard for the sanctity of human life.

But even if its effects were known to be preponderatingly deterrent, infliction of the death penalty would nevertheless be unjust not only for the reason that the punishment rarely falls so heavily on the offender as upon his unfortunate but innocent relatives and friends whom the State has no right to punish, but also for the further reason that the State has no right in cold blood to take the life of any human being whatever his offence, since it can not justly do that which no one of its members has any right to do. No man can justly take the life of another except in defence against actual or impending aggression; and

if no man has a right to take the life of another simply because the latter has taken human life, no more has any number of men, any mob or the State. The advocate of capital punishment necessarily assumes that he has a right not only himself to take life otherwise than in self-defence, but also to compel others to aid him in so doing. The death penalty is in fact demanded not so much to secure human life as to appease human resentment.

A too common and still growing abuse is that of permitting persons charged with crime, but entitled to the presumption of innocence, to be treated by agents of the State not merely as if presumed to be guilty, but even as if already convicted, and judicially sentenced to indignities put upon them. To say nothing of the injustice of such practice, its demoralising influence and tendency to weaken public confidence in the rectitude of government should be enough to condemn it.

There is perhaps no greater misuse of civil power than that involved in the prevailing system of land tenure, which, by causing land to be held as by right of property, not only denies the natural right of man to the earth but at the same time tends to vitiate the right of property. The latter right, consisting as it does in the relation

which a man naturally sustains to the product of his labour, is nugatory and barren without natural opportunity for labour. Denied freedom to enjoy his right to land, a man is deprived of the enjoyment not only of that right but also of his right to property, because compelled to depend upon unnatural conditions, upon the will and consent of other men, for whatever limited opportunity to produce it they may see fit to allow him. The right of property, which the State has seemed more solicitous to magnify, exalt and extend than correctly to define, natural and sacred as it is, can not be more so than is the right to land, which the State ignores and virtually denies by confounding it with the right of property, forgetting that the wild fruit a man eats by right of property is gathered only by virtue of his right to land.

The property right or relation is one of exclusive ownership and control and carries with it the right even to destroy the particular property owned. It arises from the effort of man and obtains only between him and the result of his effort, the concrete exchangeable product of his labour, that is, his property, or wealth. Other things may be in a sense his own, but not in the property sense. A footprint may be his but not in the same sense

as the shoe that made it. The position or place that he temporarily and perhaps wrongfully occupies in a crowd is his as distinguished from the position of others therein. The land that he cultivates or otherwise improves is his in the sense that he rather than some one else occupies and uses it, but it is not and can not be his in the same sense as the crop that he raises or the house that he builds upon it. Whether a man has a right to actual property or not depends upon whether he has produced and saved any, the right of property being as it were inchoate, and not vesting until there is a labour-product between which and its producer the relation may exist.

The right to land, on the other hand, waits not on the action or will of any man, but is a constituent element of that natural freedom which is the inalienable birthright of every human being. If any man were to have other than his natural right to land, he would of necessity have to acquire it from some other man or men; but they have only their natural right, which being inalienable can be neither transferred to nor acquired by any man.

The existing system of land tenure not only fails to secure equal enjoyment of the right to land, but

deprives an ever increasing majority of all enjoyment of that right. Held as by right of property, the land sooner or later passes into the exclusive possession and so-called ownership of a more or less limited number of men who are by the State empowered and virtually obliged to exact from other men a price for being on earth. That any man should be indebted to another for occupancy or use of the earth, would never occur to them as members of Society merely, there being nothing in the nature of things, no human relation, to suggest any such obligation. And yet the State decrees that whatever earthly opportunities a landless man would enjoy he must purchase from some other man or men, as if they were, as they legally are, the only ones having any right on earth. Nor can any so-called owner of land be legally compelled to sell or even to lease any part of it however much he may hold, for he holds it as by right of property and may use it or not as he pleases, and might even destroy it if he could. It is a dear price that is paid for any advantages such a system may have over even no system at all; a price, however, that is not paid by those who enjoy the advantages. Under it, as already seen, most men are deprived of all natural op-

portunities for self-support; not only of the opportunity to employ themselves, but also of the natural market for sale of their labour, which they needs must sell if they are to live, but which no man is compelled to buy. It would be hard to conceive of a system more subversive of human rights or more incompatible with an equitable order.

A kindred abuse is to be seen in the usual method of performing services that require monopolistic use of public highways. Such services have been seen to be public, or governmental in their nature, and ought therefore to be performed by the State itself, to the end that they be conducted solely in the interest of the public, and in such manner as not to interfere with private interests or the enjoyment of natural rights. Farmed out as they very generally are to public-service corporations, they can not in the nature of things be rendered with an eye single to the public interest, for their performance becomes a divided duty involving the service of two masters, the stockholder and the State, whose interests are by no means identical. Moreover, the prestige and power that come from connection with the public-service corporation will inevita-

bly and not unnaturally be utilised by its members to their advantage over their unprivileged competitors in private business, as well as over the public in matters of civic interest. The political boss about whom there is so much innocent prattle, and who when deposed gives place to another, is generally the political choice of the public-service and other powerful corporations, holding his place by virtue of their more or less hidden but no less influential support.

There is no good reason why all services requiring monopolistic operation or use of railroads, telegraph and telephone lines, and plants for general distribution of water, light, heat and power, including the transportation of passengers and freight and the transmission of intelligence, should not be conducted by the State directly, and with as little discrimination or favouritism as ordinarily obtains among travellers along a country road. The individual, natural persons employed in the governmental conduct of such services would have but one set of interests to serve, and but one employer, the State.

Nor will there be any such actual addition as may be supposed to the responsibilities and activities of the State when it shall itself in a di-

rectly administrative and rational manner discharge public functions whose necessarily unsatisfactory performance by corporations it now wastes so much time and effort in futile attempts to regulate. There is no right way of doing wrong, no saving of time or toil in the endeavour to reach by devious ways a goal to which there is a direct and open road, nor does the State lessen so much as it complicates its responsibilities by seeking to avoid them. Its highways are in their nature public and their monopolistic use for private gain is as unreasonable and unjust and quite as incompatible with an equitable public order as it would be for the State to assume control and operation of enterprises of a private nature. The distinction between what is social and what is individual, between things, functions and values that are public and those that are private, exists in their very nature and can not be ignored without disturbance of the natural order, an unjust and injurious interference with that equal enjoyment of natural rights which the State is in duty bound to secure. All public services will eventually be rendered by the State without charge, their cost being paid out of the values which they add to land.

The State abuses its power whenever in making provision for a legal-tender currency it adopts an unstable measure of values, as well as when it authorises private persons natural or artificial to perform the public service and governmental function of providing the legalised circulating medium of exchange. Such currency should be so constituted and controlled as to afford the public an unvarying measure of values as well as an equitably available medium for the exchange of commodities and services. It should not be such as to become itself the subject of barter, but should serve only to facilitate barter through the economic device of a sale.

A sale differs from barter in that it consists in the exchange of some commodity or service, not for some other, but for money, some medium of exchange generally receivable in payment for all subjects of barter, the sale being as it were a half-completed barter of which the money is evidence, and which is completed when some other commodity or service is finally received for and in place of the money. When the money, the medium of exchange, is itself a commodity, gold or silver for instance, its value fluctuates as do the values of other commodities, and so fails to re-

main a fixed, stable measure of value. Whoever holds it or has it owing to him for any considerable time will be either a gainer or loser thereby, for its value although apparently fixed by its being the legalised and generally accepted measure of values, becomes in reality greater or less than that with which he parted for it.

Whenever the promissory notes of private persons natural or artificial are given any advantages of circulation over those of people in general, the persons so privileged are not only given that advantage but are thereby enabled to exert an undue influence over the legalised medium of exchange. The currency authorised by the State should be as free from private monopoly and control as the public highways. It is indeed itself a public highway for the passing to and fro of values in exchange; as commodities are transported from seller to buyer by means of the railway, so are their values transmitted from buyer to seller by means of the currency.

Reference has already been made to the raising of public revenues by methods so irrational as to constitute most evident abuses of civil power. It would be difficult to specify in what respect ordinary methods of taxation can be re-

garded as rational or just. They are unjust in that they cause the burdens of taxation, of which indeed there should be none, to be borne for the greater part by those who are not only the least able to bear them, but who derive the least if any benefit from expenditures of the public revenue. It has yet to be shown that the majority of mankind are economically benefitted by existing government. But for the legalised system of land tenure, the perhaps dull-witted but able-bodied tramp might well maintain himself in possession of a cabin-patch of ground sufficient for his self-support, and that without injury to any man.

Taxes upon wealth or upon the means or methods of producing it, including tariff and excise taxes, are needless and unjust interferences with and hindrances to industry; great as is their total amount it is perhaps not greater than the loss which they occasion to the production of wealth. They tend to destroy the natural market and so to defeat the object for which they are collected, the maintenance of an equitable public order. They are, moreover, in much the greater part, paid by those who are also obliged to pay the tribute of earth-rent to private persons privileged to appropriate it.

The abuses to which attention has so far been directed consist in the use of improper means or methods for accomplishing legitimate ends, in attempts to secure natural rights through their infringement. It remains to notice abuses of the third class, those which consist in the use of civil power, not for such ends, not in attempting to discharge governmental functions, but for purposes wholly unwarranted by any most extended authority of government and absolutely foreign to all of its functions.

In considering abuses of this class it should be remembered that, no matter how desirable the end in view, if it is not necessary to maintenance of an equitable public order, to the discharge of some one or more of the four only legitimate functions of government, attempt to accomplish that end through the exercise of civil power tends to destroy that order. With the best of motives, but with no very lively sense of the moral obligation devolving upon the State as trustee of the power it forcibly assumes to exercise, the mistake is often made of using it in unnecessarily vain attempts not only to promote morality and social progress at home, but even to advance civilisation abroad.

That the State cannot justly undertake to enforce any code of morals appears clearly from the self-evident proposition that no man has any right to use force in the attempt to make another moral, and that still less has any man a right to compel others to aid him in any such attempt, so long as the immorality involves infringement of no natural right. If a man's immorality or wickedness does not interfere with any other human being's freedom to be moral or good, his merely immoral conduct is not subject to forcible control by any other man or by the State. Whenever the immoral conduct involves an aggression, the infringement of a natural right, as it often does, it is of course amenable to self-defensive control by those whom it injures and hence by the State, but it is the aggression rather than the immorality with which the State has to deal, and with that for purposes of peace and order only and not of morality. Under just government, men must, as men, have the freedom to do, according to their respective abilities, if but peaceably, whatever things they have the right, as between man and man, to do as members of Society; and as citizens they can justly do only such other things as they find it self-defensively necessary and

therefore right for them to do, but lack ability to accomplish without the aid of government. To attempt more than this, tends to destroy that freedom, and to set man as a citizen against man as man, an antagonism to which the evils of government are largely due. The only way in which the State can really promote morality is to be itself moral, that is, by permitting no immoral, unjust use of its power.

The most that the State can do for civilisation and social progress is to mind its own business. With the promotion of civilisation abroad it can have no proper concern, while the progress of its own people can be really promoted only by securing them in the free and equal enjoyment of natural opportunities for progress. For the State to undertake more than this is to be itself retrogressive, immoral and unjust, and to retard rather than promote the progress of mankind.

How irrational, for instance, and even criminally insane, how purposeless and impertinent, and how entirely evil in its effects, is the pitiful absurdity of punishing a man for failing to succeed in the attempt to take his own life. It is no part of any function of government to protect a sane man against himself, or to punish the in-

sane. Much better would it be for the State to see that it is never itself in any way responsible for the despair that drives to suicide.

A favourite abuse of civil power is that of using it for the supposed promotion of industry. There are legitimate activities of the State which are essentially promotive of industry, as are nearly all those constituting its Public-serving function; they are governmental, however, not because they promote industry, but for the reason that they are necessary to an equitable public order and can not be carried on without civil authority. No matter how much of aid or encouragement to industry it may seem to promise, any exercise of civil power not necessary to that order is *prima facie* an abuse of that power, and will be found to involve inequitable interferences with enjoyment of natural opportunities for industry.

Such an abuse is to be seen in the maintenance of protective tariffs, for they belong to no function of government; not to the first, since they are not essential to peace, but rather tend to disturb it; not to the second, for they protect no man from the aggression of another, but infringe upon the right of all men to a natural market; not to the third, for their maintenance is not nec-

essary to an equitable public order, but tends rather to inequitable disorder; and not to the fourth, for they are not essential to the integrity of the State, but invite hostility to it. They are not only unnecessary to the discharge of any governmental function and therefore a *prima facie* abuse of civil power, but they are, moreover, a positively injurious interference by government itself with that freedom of contract and exchange which it is in duty bound to maintain.

The object of a protective tariff is to render prosecution of the favoured industry more profitable than it would be without protection, which is accomplished by forcing consumers to pay more than they otherwise would for its products. This evident injustice to them is supposed to be in some way offset or atoned for through the alleged payment of higher wages than could otherwise be paid to employés of the protected industry. It is clear, however, that no such uncertain, haphazard balancing of opposing tendencies can result in doing justice or in giving equal advantage to all the people. A tariff can not increase the wealth of any portion of a people, except at the expense of some other portion, for it cannot increase the sum total of the wealth of the whole

people. With respect to foreign trade, a State must of necessity be in one of three situations. Its people may themselves consume all the wealth they produce, and so have no surplus for export; they may have a surplus, for the whole of which they find a ready market abroad; or they may find such a market for only a part of their surplus. In the first case, having no exports, they can have no imports against which to protect anybody. In the second place, their exports are exchanged more or less directly for desired imports which they thereby obtain at a less cost, or expenditure of wealth, than would be incurred by their protected production at home. Nor is there anything that protection can do to relieve the situation in the third case. That part of the surplus which finds a market abroad is there exchanged for imports costing less than they would if produced at home, or they would not be imported. With regard to any remaining surplus, to things for which there is no market at home or abroad, it is evident that their production must sooner or later give place to that of things for which there is a demand; but there can be no protection necessary or all-around helpful to making the industrial change, since it contemplates the

production of things of which there is a scarcity, and of which there are no competing importations against which there can be any possible need of protection. Whenever any portion of the people, be they capitalists or wage-workers, are benefited by a protective tariff or by any other privilege, it must of necessity be to the corresponding injury of other capitalists and labourers. The State should not interfere with the natural returns to labour and capital, with either wages or interest, and would have no occasion to do so but for abuses of its power tending to destroy the natural market, in which alone can be determined what is a just wage for labour, a fair interest on capital, or a reasonable price for any commodity or service.

A kindred abuse obtains in the grant of subsidies. They are not necessary to the discharge of any function of government, and whatever of advantage they bring to those privileged to receive them is at the expense and to the disadvantage of the unprivileged. Assistance that the State renders to anybody and not to all, must be to the detriment of somewhat less than all, less by the number of those assisted. If there be any undertakings necessary to peace and public order

but exceeding the compass of unsubsidised private enterprise, they constitute public services and should be carried on by the State for the equal benefit of all.

The grant of so-called patent rights is another civil abuse and patent wrong. Rights are not and cannot be granted. They exist in the nature of things or not at all, and are not transferable. Property itself may indeed be transferred even as it may be abandoned or destroyed, but in any case it is the specific thing, the concrete property alone that is parted with and not the owner's abstract and only right of property, which merely ceases to obtain with respect to the particular property transferred. When, through exercise of the right of contract, property passes from grantor to grantee, it becomes the latter's by virtue of his own right of property, the grantor no more parting with the right by which he held the property than with the hand in which he held it. Natural rights, and there can be no other, are not the subject of barter; it is through their exercise that barter is carried on, that contracts and grants are made. All that the State can do with respect to rights is either to secure or to interfere with the enjoyment of rights which belong to mankind as

members of Society, and by virtue of which they establish the State. It can create no rights, and can grant no man any right without first taking it from some other man, and that it cannot really do, since rights are inalienable. Any right the State undertakes to grant is in reality a wrong, an interference with the enjoyment of rights.

The so-called owner of a patented device may for reasons of his own not only neglect to introduce it into use but also forbid anybody else to use it, thereby denying the people all benefit of that which any one of them might himself have devised and used but for the State's interference. No man can justly be deprived of the freedom to make use of any method or mode of applying a principle that he might himself have discovered or invented and so have utilised but for prohibition of the State. The inventor of the first rude implement whatever it may have been had no right forcibly to prevent any other man from making or using a similar one; and so of any invention or improvement, its use is never a property right. It is the concrete product and not the manner of producing it that constitutes property. If a mere device, scheme, or mode of contrivance were indeed property, the State should maintain

the owner in permanent control and enjoyment of it as in case of other property, and could not justly limit proprietorship of it to any number of years.

If it could be shown that a discovery or invention of substantial benefit to all the people was wholly due to the purposeful effort of any individual, the State might seem warranted in making him suitable return for his service to the public. The advantages of the invention would then be immediately shared by all the people in common rather than monopolised to the emolument of those privileged to exploit it, among whom the inventor is not always to be found.

Reference has already been made to the artificial persons known as corporations. Their creation by the State being unnecessary to the discharge of any of its functions is *prima facie* an abuse of its power. Their use has become so prevalent, however, not only in the performance of public services but also in the conduct of private business of almost every sort, that the abuse calls for more than passing notice. Resort to the privilege of incorporation for purposes of industrial combination has indeed become so customary and familiar as to induce a tendency

of the public mind to confound the governmental act of incorporation with the natural right of co-operation, and to regard any criticism of the corporation as evidence of hostility to combination in general. Such criticism has been likened to the one-time hostility of labourers to labour-saving machinery. The comparison is faulty for the reason that corporations have a different effect upon industrial and social conditions from any produced by machinery, and is especially inapt in that the machine is the legitimate child of labour, whereas the corporation is the irregular offspring of civil power.

Industrial combinations that can be formed and maintained without special favour of the State may indeed be as beneficial as labour-saving machines. Any governmental restriction imposed upon unprivileged partnerships and business associations would be as irrational as any antagonism to the introduction of machinery. Co-operation voluntary and unprivileged is simply an exercise of the natural right of contract. It requires neither aid nor permission of the State, and is properly no more subject to governmental interference or supervision than any simplest form of individual enterprise. Any

man has an undoubted right to enter into agreement with any number of other men whereby they undertake for a stipulated wage to assist him in the prosecution of any legitimate business. He and they have no less right to make a different agreement according to which they combine to carry on the same or any other business for their joint or common benefit. The State has properly no more concern with the latter contract than with the former, its legitimate function in regard to either being merely to provide for peaceable and equitable adjustment of any differences arising therefrom, which it does not especially or primarily for the sake of parties to the difference, but for the sake of an equitable public order.

Natural combinations, those that can be formed without authority or aid of the State, are subject to beneficent limitations of natural law in regard both to the number of individuals who will combine as well as to the length of time they will continue to act together, and consequently also in regard to the amount of capital they can command and the influence they will be able to exert. There is nothing in reason or experience to warrant apprehension that any body of men

combination ever monopolise the approach that a country should take toward such a situation. The idea of privilege is not a new one. It is a collective characteristic of all trustworthy people. They unite and form a common purpose. They are larger and stronger than the individual and therefore they cannot be controlled. They drift toward a common end. They are not to be controlled by artificial means. They are the grant of power. They are a natural economic device. They are not to be controlled to co-operate with the government. They are the favour of the government. They are the imitations which are not to be controlled. They are the associations, which are so enabled to be controlled. They are the reason having at their disposal the natural power. They are the reason having at their disposal the natural power and peculiar characteristics from which they are

derived. The corporation was originally devised for the purpose of clothing individuals with civil authority to perform some apparently public service which did not seem to have been adequately provided for in the ordinary machinery of government. Services so performed having been in reality sometimes public and at other times private, the privilege of incorporation has more or less gradually come to be granted for the prosecution of undertakings of nearly every character and finally to be had for the asking; so that charters or articles of incorporation, being now nominally free to all, are sometimes thought to be no longer privileges. It is evident, however, that the incorporated company has advantages over the mere partnership, for otherwise the former would not have become as it has the rule and the latter the increasingly rare exception in almost every line of business. That such advantages are privileges has been unanimously held by the Supreme Court of the United States in affirming constitutionality of the Federal Corporation Tax law, the Court saying: "The tax is laid upon the privileges which exist in conducting business with the advantages which inhere in the corporate capacity of those taxed, and which are

not enjoyed by private persons or individuals. These advantages are obvious and have led to the formation of such companies in nearly all branches of trade. The continuity of the business without interruption by death or dissolution; the transfer of property interests by the disposition of shares of stock; the advantages of business controlled and managed by corporate directors; the general absence of individual liability; these and other things inhere in the advantages of business thus conducted, which do not exist when the same business is conducted by private individuals or partnerships. It is this distinctive privilege which is the subject of taxation, and not the mere buying or selling or handling of goods, which may be the same, whether done by corporations or individuals."

It is clear that the advantages of incorporation cannot be enjoyed by all, but only by those who already have an advantage over their less successful fellow men, in that they have capital to invest; that they are privileges beyond the reach of those who have only their labour to depend upon, and so tend to widen the economic distance between the labourer and the capitalist. Nor is it the labourer alone whom they put to an un-

natural disadvantage. There are many possessors of capital who do not find it practicable or do not care to avail themselves of the privilege of incorporation, but who would be glad to engage in business as natural persons, opportunity to do which the State should secure to them instead of depriving them of it, as it does by forcing them to compete if at all with abnormally powerful persons of its own meddlesome creation. Such possessors of capital cannot themselves employ it, but must, not from fault of their own or from any natural cause or process of evolution but at the arbitrary behest of the State, let it remain idle and unproductive or risk it on the ability and honesty of strangers, in stock speculation. In all the fields of industrial activity, natural persons and associations, the only ones having any right to compete in the production and accumulation of wealth, are being supplanted by artificial ones which have not even the right to be, for the reason that rights are of necessity always natural.

Nature produces inequalities enough in the common struggle for human existence, and it would seem that if there is to be any interference by the State it should be in behalf of the weaker

rather than the stronger. On the contrary, however, it is the latter who are authorised and enabled to merge themselves and their interests in that artificial personality, the corporation, which inoculated with the virus of privilege enters the competitive field immune from ordinary vicissitudes, relieved from the infirmities of disease, death and conscience, and sooner or later outdistances its unprivileged competitors by lengths that could never be attained by natural persons or associations one over another. It is sometimes said, as in extenuation of the destruction of individual enterprise by corporate monopoly, that it is natural for big fish to swallow little ones, which may be true, but it is to be remembered that they do not become big or devour their kind through the power of government instituted and maintained by themselves in the name of justice.

The State abuses its power in so far as it neglects to provide for the free, equal, active and most effective expression possible of the individual opinion and preference of its members in regard to all matters of government, by women as well as by men, by poor as well as by rich, and by the illiterate as well as by the learned; for the

sake of peace and order they are all alike required to forego individual exercises of the right of self-defence, and are hence all alike entitled to share in whatever collective, orderly exercise thereof is substituted therefor. The casting of a ballot is merely civilised exercise of the natural right of self-defence. Not to have the ballot is to be governed by those who have it. To be governed by others than ourselves is to enjoy the civil liberty allowed to slaves. It would be clearly unjust for the poor however great their majority to deny the rich an equal voice in government, and for women to exclude men from participation therein would be as irrational as it is for men to exclude women. Nor are the learned much more likely than the illiterate to correct abuses in government. The most highly educated are often the stanchest defenders of privilege. No government by a self-selected class, however fit to govern they may have deemed themselves, has ever been so nearly perfect as to warrant excluding from its councils anybody interested in its administration. Any man however unlearned can understand government so long as it minds its own business. It is only when the State exercises its power beyond

right that the learning which transcends common sense becomes necessary to what is deemed a proper understanding of statecraft.

It is an abuse of civil power to permit any exercise of it to pass beyond direct control of the people. Their will as indicated by their suffrages must from the nature of things be carried out by agents through what is called representative government, but the more direct the responsibility of its agents, the more truly representative will be the government which the State maintains. Like any other agents, public servants should be at all times subject to discharge by their principals, the people; otherwise they would become for the time virtually principals, and might execute their own rather than the people's will. However independent of each other different branches of the government may be, they should never any of them be independent of the people.

A kindred abuse is to be seen whenever the people of one day or generation attempt through constitutional or other prohibitions in any way to hamper themselves or their successors in the exercise of civil power. The true relation of constitutional provisions to legislative enactments is

not unlike that which rules of parliamentary procedure adopted by a deliberative body sustain to the resolutions and acts of such body. As a general rule, subject to modification under exceptional circumstances, as in case of a federation like that of the United States of America, a constitution should prescribe the manner rather than the matter or limits of legislation, and in any case should be itself readily amendable. Constitutional prohibitions are quite as likely to retard as to promote that progress toward rational government which should at all times be feasible through statutory enactment unhampered by any restrictions other than those imposed by requirements of an equitable public order. What need of charter or bill of rights have a people who have no political superior, who are free to govern themselves and whose agents are ever subject to the popular will, or with what wisdom shall they tie their own hands as against themselves?

It is also an abuse of civil power for the State to require questions of merely local concern, generally of expediency rather than of absolute right, to be submitted for determination to persons outside of the locality concerned. As the individual should be free to order his private conduct in his

own way so long as he interferes with no natural right of another, and as the family in the management of its affairs should be free from interference by others of the neighbourhood, so should the people of each political subdivision of the State, of a city or county for instance, be free to order their city or county affairs in their own way, provided they thereby infringe no natural right and cause no disturbance of the public order. There may be many different ways in which a county might perform some particular service devolving upon it. If each of a number of such ways has to be tried by as many or more different counties of the State at the same time, it will take at least as many years to try them all and experimentally to determine which is best. If, on the other hand, each county were free to act independently of the others and to try whatever methods it would, they might all be tried and question as to which was the best determined in a single year. This principle underlies the doctrine of home rule or local option, as it also does any rational theory of State rights as against federal authority.

It is another abuse of its power for the State to exclude from its territory any well-intentioned

person voluntarily seeking to make his home therein. No man can justly be prevented by another from locating wherever on earth he will, provided he does not thereby interfere with the rightful location of any other, nor can the State justly do what it would be unjust for any one of its individual members to do. It has little more right to prevent a man's peaceable coming into its territory than to forbid his being born therein; if it seems to be crowded it is probably because somebody is taking up too much room. Seeming necessity for the exclusion of would-be immigrants will disappear upon the adoption of a just system of land tenure, unjust systems being among the principal causes of emigration. Love of country is generally strong in hearts out of which it has not been crushed by tyranny, the exercise of power beyond right.

It would seem soon enough to inquire into the object of a man's coming when his conduct indicates an evil purpose. That he does not believe in government is hardly sufficient reason for excluding him. His experience may have been such as to induce a disbelief which the State would do well not to confirm, and he may nevertheless prove a better citizen than he would if he

believed too much in government, or in too much of it. When one considers "all the oppressions that are done under the sun," and that they could not persist without the support or connivance of civil power, he will hardly wonder that men sometimes lose faith in government.

It will be observed that the foregoing conclusions are not so much mere opinions as they are the logical, inevitable result of reasoning from the self-evident proposition that the only just warrant or authority for any exercise of civil power is the natural, individual right of self-defence; and that it devolves upon those who reject that proposition and yet believe in government, to show by what other right than that of self-defence any man, any number of men, or any State, can forcibly control the conduct of any man.

It is only through correction of the abuses of civil power that civic progress is to be made. That progress must of necessity be more or less gradual and sometimes exasperatingly slow, but every step in the right direction makes the next one easier. True reform in government is to be effected not through the enactment of more law but by the amendment or repeal of superabundant existing law. Laws involving abuses of the

second class, the use of irrational methods in the endeavour to accomplish legitimate ends, must be amended by substituting rational methods; while those constituting abuses of the third class, the use of civil power for illegitimate purposes, must be repealed. After such amendment and repeal, there may be as little of necessity as there now is of room for what is called constructive legislation.

CHAPTER V

CIVIC PROBLEMS

Polonius:

"And now remains,
"That we find out the cause of this effect;
"Or rather say, the cause of this defect,
"For this effect defective comes by cause."

SHAKESPEARE.

BEFORE entering upon any briefest consideration of so-called problems of government, it should be observed that a problem may be social, a matter of even serious common or social concern, and yet not be civic, that is, susceptible of solution by the State. It is not a problem of government unless it arises from conditions due to some governmental fault of omission or commission, to some one or more abuses of civil power. Whenever the State shall be fully and efficiently performing all its legitimate functions, which precludes the use of its power for any other purpose, it will be discharging its whole duty and for the time thereby exhausting its authority. Any

problems then remaining will be non-civic and will have to be solved, as indeed they always must be if at all, by the members of Society acting in their private capacity and not as citizens. For the State to undertake the solution of any such problem or to lend its power for that purpose, would be to abuse its power and to complicate the problem. There is no doubt, however, that the solution of non-civic problems is greatly retarded and in many cases wholly prevented by the persistence of civic problems, and that not only civic progress but all human advancement awaits the correction of those governmental abuses from which civic problems arise. In other words, abuses of civil power not only give rise to troublesome civic problems but also stand in the way of solving those not civic. Who shall say to what extent solution of the non-civic problem of promoting moral progress is hindered by the persistence of involuntary poverty, that great civic problem and prolific cause of man's degradation and misery.

Problems of government have been aptly called symptoms of disease in the body politic, but it is not necessary to wait for development of the symptoms in order to know that the disease

exists. When the abuses to which the disorder is due are known to exist they should be corrected without waiting for it to culminate in what is called a problem of government. And yet, though an abuse of civil power is always from its beginning directly injurious to somebody, it is nevertheless generally allowed to continue until its evil effects, either of themselves or in conjunction with those of other abuses, become so widespread and acute as to cause that degree of popular unrest which eventually compels the attention of the State. And even then the so-called problem may be for the time disposed of without correction of the causal abuse, which may not only remain but be even more firmly entrenched than ever before. Popular discontent aroused by the irritating spectacle of vast landed estates may be allayed by reducing the size and increasing the number of individual holdings, but the basic wrong, the abuse of holding land as if it were property, will have as many more interested defenders as there are additions to the number of so-called land owners, while the hard lot of the great mass of the people still expropriated from the soil, will be little if any improved. Dissolution of the combinations called trusts into

their constituent corporations, does not render the latter any the less destructive of natural competition, but gives them the additional security of express or implied judicial approval.

As the moving purpose in attempting to dispose of this or that problem is often not so much to do even tardy justice as to allay the peace-disturbing unrest, attention is generally directed more to mitigation of the troublesome effect than to correction of the abuse that causes it. Nor is it always easy to determine whether the problem is indeed civic, one to be solved by the State, or to identify all the abuses that may have contributed to complex conditions of industrial and social hardship, which are often charged to causes most diverse as well as remote, industrial panics, for instance, having been attributed even to spots on the sun. It is, however, upon such incidental occasions and irrational methods that the State is wont to rely for correction of civic abuses. As the abuses should have been corrected before the resulting problem arose and as they must be corrected before it can be finally solved, it is clearly a waste of time and a further abuse of its power for the State to putter and pother over this and that problem, vainly trying to identify and distinguish

the different causes that may or may not have contributed to a complex evil result, when it can more easily and much sooner remove all abuses, and with them all civic problems, than it can satisfactorily or finally solve any one problem. If the patient is known to have swallowed poison, the physician does not spend much time in diagnosing the case, but applies the stomach-pump, and of course forbids the taking of more poison.

A difficulty to be encountered in considering any one of the problems of government arises from their essential interrelation, the solution of one often involving that of one or more others. It is not easy, for instance, to think of any one of them that is not in some way related to the problem of poverty. Be it the problem of labour and capital, of the trusts, of the railroads and other branches of public service, of the currency, of graft, or of so-called swollen fortunes, the wrong it connotes tends to impoverishment of some of the people, while the problems of disease, vice and crime necessarily involve consideration of poverty both as cause and effect of the evils they connote.

Poverty due to indolence, improvidence, intemperance, to vices of the individual, is chargeable to government so far only as the State is responsible

if at all for his having those vices. It would not be reasonable, however, to assume that poverty is always due to such causes when others are known to exist. Long-continued or oft-repeated idleness whether voluntary or enforced will impoverish all who depend upon their labour for support, as will also an insufficient wage however industrious and saving the worker, and it therefore devolves upon the State to inquire whether it is in any degree responsible for the enforced idleness or insufficient wage and consequent poverty of any man.

If the enjoyment of natural opportunities for self-employment as well as for the sale of one's labour were secure to all men, the State would not be responsible for the non-employment of any. On the other hand, if that employment be not secured to all it is impossible to know how many are for that reason disemployed or underpaid, or to what extent the State is therefore answerable for existing poverty. The only way to be assured that it is not at all so responsible is to provide that no man shall be in any way deprived of such enjoyment. That, as already seen, the State has not yet done, but, on the contrary, has itself deprived the great majority of men not only of natural opportunities for self-employment but also of a nat-

ural market for the sale of labour. It is of course impossible to know to what extent poverty is due to these causes, nor is it necessary to know; they can not fail to have their effect, and even if there were no problem of poverty, no poverty even, it would nevertheless be the duty of the State to see that no man is by any other man or by the State itself denied any natural opportunity for self-support or for the pursuit of happiness.

It has been seen that the holding of land as by right of property not only deprives the majority of men of their natural and only opportunity for self-employment, but destroys the natural market for the sale of labour. Denied access to land, men who would otherwise be not only self-employers but eventually buyers of other men's labour, are forced into the ranks of those who must seek to sell their labour. Owing to this artificial, State-enforced increase in the supply of wage labour as well as decrease in the demand for it, there are oftentimes, if not always, more would-be sellers than can find buyers at any price, no matter how low the market may fall. It is from the hard conditions of such unnatural, State-imposed market, still further demoralised by other governmental interferences, that arise wasteful, peace-

disturbing conflicts between labour and capital, or, correctly speaking, between the sellers and the buyers of labour, as well as among the sellers themselves. The employer of labour is forced to buy it as low as it can be bought by others or be driven from the competitive field, while the employé feels compelled to combine with others for protection against the competition of fellow toilers who to save life are eager to sell their labour even for less than a living wage.

Responsibility of the citizen for this virtual destruction of all freedom of contract for the sale of labour, is not to be escaped through any show of righteous indignation at the however wrongful interference of hard-pressed union-labourers with such pitiful remnant of that freedom as may remain to their non-union competitors. No offence for which the State punishes the striking wage-worker is to be compared with the prior wrong, the strike-causing abuse, of which the State and every citizen consenting thereto are guilty. The State should at once begin the work so long and stupidly delayed of restoring to all men that equal enjoyment of natural opportunities for self-employment of which they are deprived by the legalised holding of land as if it were property.

That can be accomplished only by appropriating land values to public rather than private uses. Whether restoration of the land to the people would wholly solve the problems of labour and capital, is not to the point; they can not be solved without such restoration, and even if they could the governmental absurdity and State-stultifying abuse of legalised land monopoly should no longer be tolerated, for it involves greater injustice and more far-reaching wrong than any the State undertakes to prevent.

It is, moreover, only through righting of this wrong that can come any solution of the problem of taxation. The appropriation of land values to public uses will afford the State a just revenue amply sufficient for all its needs, doing away with all complaint of inequitable and burdensome taxes, with all necessity for borrowing, and eventually with the demoralising embarrassment of a public debt. The time will come when there will be no man or class of men, no part of the people, richer than the State, the whole of the people; when the State will be able to pay as it goes, without asking for or interfering with the wealth of any man, even after he is dead and unable to protest. Another result of treating nat-

ural opportunities not as wealth, but as its common source, will be the disappearance of industrial panics, for when industry shall be no longer arrested and held up by periodic or other speculative inflations of land values, its operation will be as continuous and uninterrupted as the continuing and ever increasing wants of the people.

In considering the disappointment, inconvenience and possible hardship that landholders and the holders of securities based upon land values may experience by reason of appropriating those values to their just and proper use, it will be borne in mind not only that persons liable to such hardship will be few in comparison with the vast number of those now unjustly expropriated from the land, but also that their hardships will be less severe as well as more readily escaped than those imposed upon the victims of land monopoly; further, that while in the one case the hardships are necessarily incident to the righting of a great civic wrong; in the other they are the inevitable result of its continuance; further yet, that in one case they will become fewer and fewer until they finally disappear, while in the other they must increase in number and severity as long as the wrong shall continue; and, further still, that the neces-

sarily gradual change from private to public use of land values will be accompanied by such improvement in economic conditions as to reduce industrial hardships to a minimum. Moreover, the State will then be able to provide for the decent, comfortable support of all persons for any reason incapable of self-support, for it will not have to provide as now for that much greater number who will for the first time become self-supporting and a help rather than a burden to the State when no longer denied natural opportunities to be so. Nor will provision which the State shall then make for the unfortunate carry with it any suggestion of almsgiving, for it will not be made out of the means or at the expense of any individual, but from land values, from that social fund to whose maintenance there are no contributions, either voluntary or enforced, of individual or private wealth.

It is evident that in dealing with the mixed problems of land monopoly and taxation, which are seen to underlie so many other problems, the State must of necessity choose between two courses of deliberate action; the one involving no injustice, but merely the temporary hardships necessarily incident to the righting of a great and

long-continued civic wrong, hardships, however, which will be felt only for a time, and by only a few of the people, and from whose severity the State may well afford relief; the other involving the positive injustice of continuing that wrong, and with it the ever enduring hardship which it entails upon a vast and ever increasing majority of the people, and from whose severity, and countless evil results to the whole people, the State can afford no adequate relief so long as the wrong shall continue. Along which of these two only courses, in which direction, lies the path of civic righteousness sometimes thought so hard to find, is a question to be answered by every citizen for himself.

The problem of the trusts is so recent as to suggest the likelihood of its being due to some comparatively recent cause, and yet attempts at its solution have been as usual directed mainly to consideration of effects rather than causes. Nor are the difficulties inevitably to be encountered in attempts so made by any means wanting in this instance. It is contended on the one hand that the trusts are not an evil, and on the other that they are wholly so. Some say that there are good and bad trusts and that the latter should be

regulated, but with little agreement as to how they should be regulated, while some contend that there is no just regulation possible, no right way of doing wrong, even by rule.

If the trusts are wrong it must be for the reason that they wrong somebody, that is, that they interfere with individual enjoyment of some one or more of the natural rights of man, for in no other way can any man be wronged. It is claimed on one side that trusts wrong the people by extorting through monopoly and restraint of trade an exorbitant price for commodities in which they deal, and on the other that through economies made possible by combination they reduce prices. But who shall say what is a just price for any commodity when there is no natural market for the sale and no free competition in the manufacture of it? The price may seem so high that one feels he is being robbed, or so low that he knows some one else has been, but what is a just price neither he nor anybody else can determine under existing conditions. For the sake of peace government may decree what shall be a legal price, but the price so fixed may in spite of best intent and endeavour be as far from just as are the conditions which render governmental action necessary.

Neither the statutory nor the commercial rate of interest is a reliable index, since the one is arbitrary and may be too high or too low for all any one can tell, while the other is no less subject than other prices to inequitable influences that obtain in an unnatural market.

But the evil that the trusts may do is not confined to the enhancement of prices. The people are interested not more in buying at a fair price than in producing wherewith to buy, and if the trusts interfere with individual enjoyment of whatever of natural opportunity for the production of wealth survives the encroachments of land monopoly and other privileges, they are an evil even though they may reduce prices. If a resulting reduction in prices were to be held sufficient warrant for the grant of privileges tending to destroy natural competition, there would be no reason why a still further reduction should not be held to warrant its total destruction, even through State monopoly of all the means of production.

Land monopoly, which is by no means confined to the holding of land for private uses but includes the private holding of railroads and other rights of way in their nature public, is so clearly destructive of natural competition that it is some-

times thought to constitute, together with tariff, patent-right, and certain money privileges, the entire composite trust evil. But while it is true that such monopoly and privileges are so largely exploited as to be almost monopolised by the trusts, it is not upon them that the combinations under consideration depend for their distinctive character, nor would the abolition of that monopoly and of those privileges wholly destroy the trusts or deprive them of their peculiar power for injury.

A combination or trust is of course reprehensible whenever and only when the individuals composing it are so combined as to have an unnatural advantage over their actual or would-be competitors in business. It has been seen, however, that the natural and therefore beneficent tendency to combine is so evenly balanced by opposing tendencies and natural hindrances as to prevent unprivileged natural combinations becoming so large or powerful as to be permanently monopolistic. However extended a partnership may become, so long as it is unprivileged there will be others able and willing to cope with it. Whatever restraint such associations may exert wrongs no man unless by direct illegal interference with

some natural right, against which collective aggression the State should of course afford protection the same as if it were individual. There is no wrong in unprivileged combination and co-operation for the production of wealth. If two men have a right to combine, so have hundreds or thousands, as far as they can without privilege, and, as already seen, it is not in the nature of things, not in human nature, for unprivileged combinations so to extend and continue as to monopolise any field of industry. The reprehensible trust is therefore never a natural association, but always a corporation or combination of corporations, and could not maintain its integrity without the cohesive force of corporate privilege, which indeed constitutes its essentially distinctive characteristic.

That corporations have abnormal power will hardly be questioned. As said by the Supreme Court of Tennessee: "Great corporations may do great mischief and wrong; may make and break merchants at will; may crush out competition, limit employment and foster monopolies, and thus greatly injure individuals and the public; but power is inherent in size and strength, numbers and wealth, and the law can not set bounds

to it unless it is exercised unlawfully." If that be, as it seems, correct statement of fact and sound conclusion of law, by what just warrant does the State assume to increase the strength of this or that body of men, as it does by every act of incorporation? Every corporation however small owes more or less of whatever strength or power it has to the privilege of incorporation, and to that extent embodies the characteristic privilege and evil of the larger corporation or trust. By means of their peculiar advantages, one of which is the control of capital in such way and to such amount as to warrant risking some part of it in underselling unprivileged competitors, corporations have gradually driven natural persons out of almost every considerable branch of business. This has been as surely in restraint of trade as it is for the trust to undersell and so crush out competing corporations. The wrong in either case consists not so much in the underselling, which is not in and of itself any infringement of natural right, as in granting the privilege without which such underselling could not be safely undertaken. Trade is restrained whenever and only when somebody is restrained from trading. Natural competition is merely the exercise of economic free-

dom, and consists in the unrestricted, unprivileged and commendable endeavour of natural persons to render each the most acceptable and readily exchangeable service to his fellow men. To exclude any man from natural opportunities for such endeavour, or to subject him to any artificial, State-imposed disadvantages in the making of it, is restraint of trade as unjust and as unreasonable as any that can obtain, and is none the less unreasonable or unjust because unconsciously imposed and ignorantly borne.

The trust is but the logical, inevitable outcome of granting corporate privilege. By forcing natural persons out of the competitive field, corporations first destroy whatever of natural competition until then obtains in spite of land monopoly and other privileges. Then follows the only competition possible among artificial persons, a competition as unnatural as the competitors, governed and governable by no natural law. The corporations must either combine or go on cutting one another's throats, but whichever they do the trust is inevitable, for if the throat-cutting continues it must sooner or later result in the defeat of all but the one victorious and dominating corporation left in control of the field, and so holding as

great a monopoly as any to be acquired through combination. There is some excuse, seeming necessity even, for the combinations called trusts, their object being to avoid a self-destructive competition; but there is no excuse to be offered for creating the corporation, which is not only unnecessary to the performance of any governmental function but is in and of itself necessarily destructive of the natural competition essential to industrial liberty. Outcry of the corporation against encroachment of the trust is heard because of a vocal potency that comes with privilege. The plaint of the individual, the natural person, as he goes down perhaps before that same corporation, is too faint to be heard, and he helplessly, hopelessly, takes his place in the already overcrowded ranks of those who are forced, not by any natural law or evolutionary process but by abuse of the power of the State, to offer their labour in a market where the State neither buys nor compels any one to buy.

Corporate privilege was originally presumed to be granted only "for the advantage of the public," the Courts holding until times quite recent that the purpose of incorporation should always be "the accomplishment of some public good." The

theory was stated by the Supreme Court of the United States some years ago as follows: "The wants of the public are often so imperative that a duty is imposed on government to provide for them; and as experience has proved that the State should not attempt directly to do this, it is necessary to confer on others the faculty of doing what the sovereign power is unwilling to undertake." More recent experience goes to prove, as far as it is possible to prove what is self-evident, that the State should not attempt to do its duty in any other way than directly. The railroad and other public-service problems are the result of conferring on others the faculty of doing what the sovereign power has seemed unwilling to undertake, and their solution awaits the time when the State shall be willing to do its duty.

Whether industrial corporations, those formed for the prosecution of private business, have been "for the advantage of the public," is a question which would seem to be sufficiently answered by the problem of the trusts. The Government has at last deemed it necessary to assume such control of their affairs as it would never be necessary or proper for it to exercise over the business of natural persons; a control, however, which the larger

corporations may welcome in the not unreasonable expectation that it will maintain them in the now doubly legalised and judicially reinforced enjoyment of already virtually all-encompassing privileges, free from all further worries whether of competition or of combination, for the corporations will hardly be lacking in power to direct whatever control of their overgrown affairs they compel the State to assume. In view of the difficulty government has always had in controlling natural persons, what reason is there for presuming that it will ever be able effectually to control the so much more powerful ones of its own, Frankenstein-like creation? A corporation that does nobody any harm will do nobody any good. There is no natural law nor can man prescribe any equitable rule for the conduct of unnatural persons. There is no rule of reason applicable to things intrinsically unreasonable.

Solution of the trust problem must abide the time when the State shall realise that it can not create artificial persons without infringing the rights of natural persons. As it has had to dissolve the trust by resolving it into its constituent corporations, so will it eventually have to resolve the latter into the individual natural persons of

whom they are respectively composed. The alternative is State socialism, toward which the attempted regulation of corporations by government now tends. Their power for injury may, however, be meanwhile greatly diminished by the abolition of privileges which they now exploit in common with any natural persons not as yet driven from fields of such exploitation; for, as already observed, corporations tend to monopolise not only natural opportunities for the production of wealth, but also all privileges, or State-given advantages of inequitable appropriation. They are quivers of privilege in which to gather and carry all the arrows of privilege.

That many industries have come to be conducted on a larger scale than individuals or even partnerships would be able to maintain does not prove that they ought to be so carried on. Their present gigantic proportions are as unnecessary and abnormal as the privilege to which they owe their enormous expansion. And yet it should be remembered that there is nothing reprehensible in mere magnitude even of business, for when due as it may be to natural causes alone it is itself natural and therefore right. When it is really a symptom of economic disease, and it can never be

more than a symptom, the corrective treatment should be applied to the disease rather than to the symptom. The evils of a privileged and therefore abnormally expanded business are not to be remedied by reducing the magnitude of its operations. To scatter a disorder is not to cure it.

If there be any necessary undertakings which can not be conducted without the privilege of incorporation, it is evident that they are not private but public in their nature, and should be carried on by the State, the only corporation that can justly be maintained, other corporations being but its irregular and vicious progeny. If any industry necessary to an equitable public order be indeed in the nature of things beyond the compass of unprivileged private enterprise, it is clearly one in which natural persons have no right to engage. That any really private industry as carried on by corporations has become too unwieldy for natural persons or associations to conduct, does not, however, make it a public service, but is merely evidence of unnatural, privileged combination and that the industry should revert to the control of natural persons, who have a natural right to engage in its prosecution and will gladly do so when no longer prevented by the restraint of

corporate privilege. Dissolution of the corporations and virtual abolition of the privilege of incorporation might be effected through imposition of a sufficiently drastic tax on the privilege, provided shifting of the tax from the privilege to the public were prevented, but as that would require government regulation of prices the remedy would be worse than the disease.

The currency question seems more nearly than any other to approach the perplexity of a problem. It is clear that the legalised medium of exchange should be issued and controlled by the State, but not so clear what it should be. If it be a metallic currency, a certain weight, of gold or silver for instance, is made the unstable unit, the ever shrinking or expanding and therefore unreliable and inequitable measure of value; while a paper currency, by which the State undertakes or guarantees the payment of gold or silver, has the additional imperfection of being exposed to the danger that the State may not be at all times able to keep its promise, the gold or silver not being always readily obtainable.

A legalised medium of exchange should bear evidence that the holder has parted with value to the amount indicated, and is legally entitled to a

generally transferable hand-to-hand credit therefor. The abstract unit by which the value is measured and known must necessarily be apprehended and identified in the first instance as being equal to the then value of some definite quantity of something having value, of silver or gold for instance, but it is no more a unit of silver or gold value than of any other, for if it is to be a fixed and unvarying measure of value, it must be and remain independent of all values and unaffected by any. Once it has been identified and adopted there is no necessity for its being thereafter tied to or influenced by the value of any particular commodity, nor can it be without losing its identity. Whenever, whether for purposes of approximate identification or for any other reason, it is made to follow the value of the metal or other commodity used in making the original identification, it sooner or later becomes a different unit and value from that originally selected, and the value of the currency will consequently shrink or expand as the case may be, as will also all credits measured in terms of the currency.

In order that the unit selected may remain a fixed and reliable measure of value, it must be allowed to do the measuring and not be itself sub-

ject to a measurement which means continual modification. Its delicate functionings should not be disturbed by any changes in the value of this or that commodity, of gold or silver. If those metals were wholly to disappear, values and units of value would still remain, and any unit in use could be easily identified and continued in use without reference to the value of any particular commodity; for, at any time after that abstract entity, a unit of value, a dollar for instance, has once begun to measure the values of those no less abstract entities known as debts and credits, and measured in dollars, that unit or dollar will, if permitted, continue its unchanging measurement not only of those values but also of the values of all commodities and services, since it is in such commodities and services that debts are in reality finally paid.

If the State should on a certain day call in all the legalised money in circulation, redeeming all or as much of it as might be voluntarily surrendered, and in exchange therefor should issue dollar for dollar a paper currency receivable in payment for all dues public and private, and thereafter constituting the only legal-tender money, the value of a dollar as of that day and

as indicated by such currency would continue to be the unit by which that currency would measure all values including the values of silver and gold; for a dollar of such currency, being made receivable in payment and satisfaction of any dollar of then existing indebtedness, would be thereby arrested and thereafter held by continuing to be so received. In other words, the abstract unit and measure of value obtaining on the day the currency was issued and then measuring the values of all credits, and of all existing indebtedness whether matured or not, would be and continue to be the unit and measure by which such currency would thereafter serve to transfer such credits and to pay such indebtedness as it should from time to time mature, as well as the unit by which it would measure values involved in obligations incurred after issue of the currency and payable therein. A dollar of such currency would not be subject to fluctuations in the value of gold, of silver or of any other commodity, but would be and remain, as it should, a purely abstract and at the same time stable unit for measurement of the values of all commodities and services, as well as legal evidence of the holder's title to a general credit for the value indicated.

Such a currency will not be a promise to pay, made perhaps to be broken, but a governmental undertaking and assurance that it shall and will be receivable in all payments, whether to the State or to its individual members. It will be as safe and sound as the State itself or as any bonds the State can issue, while every holder of it and every creditor whether of the State or of its citizens will be conscious of personal, pecuniary interest in maintaining the integrity of government. It will, moreover, never leave the territory of the State, in which it should remain, like any other public utility, unaffected by monetary vicissitudes of other States. With such a currency in use, gold and silver, not being required for legal-tender uses, would be more readily obtainable than now for any purposes of domestic or foreign trade as well as for meeting existing obligations calling for payment in those metals. The volume of the currency, automatically adjusted through collection and expenditure of the public revenue, would always be such as to preclude any danger of insufficiency in the quantity of money in circulation, while every dollar of it, however large the volume in circulation, would represent and call for the value for which it was originally issued. Being is-

sued always and only for value received, that is, first in exchange for money in circulation at the time of issuing the currency and afterwards only in payment for commodities and services furnished the State, and accepted in payment of public revenues as well as in discharge of private obligations, such a currency would serve all the purposes of an equitable legal-tender money.

With the business of banking, when limited to the borrowing and lending of money, the State has properly no more concern than with any other private enterprise, its duty in that regard being done when it protects bankers and their customers, as it should everybody else, from fraud or violence. If provision for the safe deposit of money, or for convenient transmission of money or of credits, be necessary to equitable functioning of the currency, and can not be had without the aid of government, the State should of course itself make such provision.

In considering the problem of swollen or exorbitant fortunes, question arises as to what the State has to do with any man's fortune if it be indeed his. If the mere magnitude of it may warrant interference by government, how many millions may be accumulated without incurring

such liability? Is still further accumulation permissible provided the excess be appropriated to beneficent uses, or is it presumed that possessions beyond the limit do not rightfully belong to their possessor; that they are not his even to give away, but ought to be restored to their rightful owners? If so, may not the unjust accumulation have been going on so long that it is now somewhat too late to indemnify or even to identify those whose substance has gone to swell the fortune?

The amount of a man's wealth may indeed be so great as to suggest the improbability of its having been equitably accumulated, but can hardly be taken as proof that it was not legally acquired. If so acquired it would ill become the State to deprive him of it so long as the methods by which he acquired it continue to receive the approval of government. In so doing, the State would in effect say to the man: "The methods by which you have acquired the great wealth you possess though legal are so clearly inequitable that you will not be permitted to retain the entire amount of it, it having become the policy of the State to limit the extent to which one may go on appropriating wealth belonging to others, to the end that there may seem to be no monopoly of that

privilege. If you had spent the wealth as you acquired it, as others may have done even to a larger amount than you have imprudently saved, nothing might have been said, for although the wrong done to the rightful owners would have been the same it would have attracted little if any attention. Others are to be sure making use of the same inequitable but legal methods of accumulation, as they must if they are to succeed or even engage in business, but it is to be hoped that they will take warning from your case and not carry the joke too far." It is evidently anything but a scientific diagnosis that assumes to determine at what point unjust but legal accumulation of wealth passes from healthy growth to abnormal increase or swelling.

The problem in so far as it is at all governmental must necessarily involve more or less of what has come to be called graft, so named after the familiar process by which one organism is enabled to thrive on nourishment produced by another, upon which it is said to be grafted. If the fortune of any man has been to any extent built upon wealth belonging to others, its growth has been so far due to some form of graft. If the graft be illegal, the law is presumed to provide

some means for preventing it; if legal, the State is responsible for and should put an end to it. So far as wealth has been lawfully acquired, no matter how inequitable the accumulation or how vast the possession, the State can not equitably interfere with it, for it can not now be restored to those from whom it was wrongfully taken. Wrongs suffered by men of a past generation can seldom be righted by anything done by or for those of the present, and small consolation to those who are being robbed in the present is it to be told that when they and the robber are dead the hoard he shall leave will be taxed to reduce the taxes of robbers still living.

But this conclusion by no means disposes of the problem. Few if any so-called fortunes consist entirely or even mainly of wealth. They are generally more or less swollen with the dropsical affection of privilege, the capitalized value of which is accounted part of the fortune of its possessor. If the State were to grant to some man possessed of no wealth whatever the privilege thenceforth to collect but a penny a year from each of its inhabitants, he would be rated as a man of fortune although he might not save a dollar of his income. And if the privilege should be

revoked the fortune would disappear, but the man would thereby be deprived of no wealth. He would simply cease to appropriate the wealth of others. And so of all fortunes; to whatever extent they are based on privilege, to that extent will they be reduced by its abolition, and that without interference with any wealth of which they may be as they generally are in part composed. As a rule, however, the greater the fortune, the greater the proportion of privilege to be found in its make-up. A fortune of a hundred millions means perhaps sixty or seventy millions of capitalized privilege, to say nothing of any inequitably but legally acquired wealth it may contain. Abolish land monopoly, protective tariffs, subsidies and patent-rights so-called, together with corporate privileges, the State assuming control of all public utilities, and there will not long remain any fortunes so large as to attract envious attention or as to enable their possessors to dominate the business world.

The confused and seemingly inexplicable jumble of economic and industrial conditions, resulting from governmental interferences with automatic operation of the natural laws of wealth

production and distribution, has led many to believe that in order to secure an equitable distribution the State should assume ownership and control of all the means of production and distribution. The proposition necessarily implies not only a present inequitable distribution but also the possibility of making provision for a just one. It is clear, however, that before the State can make such provision it must determine what would be a just distribution, and to that end must first ascertain the natural law of wealth distribution. That law can be deduced only from the natural laws of wealth production, for it is impossible to know how anything produced by and belonging to several owners ought to be divided among them, without first knowing what were their respective contributions to its production. Assuming the production to have resulted from the combined effort of equally efficient producers, it will hardly be contended that one who has laboured for a day only would be justly entitled to as large a share as would one who had laboured for many days; and even if the proposition is to be understood as involving supposition that any distribution to be made by the State shall be equal, it is of course

no less necessary to consider those natural laws, in order to determine whether such equal distribution would be equitable.

There are two primary factors which enter into the production of all wealth, namely, land and labour. If the land has no value, no superiority in productivity over other land in use, the product is due solely to labour, and belongs in its entirety to the labourer. He owns it; it is his to possess and control, and constitutes his property, or individual wealth. If the land be valuable, the same labour will produce thereon more wealth than upon the land having no value, but, since the labourer's contribution to the product is no greater in the latter case than in the former, the additional production is due solely to his occupancy in the latter case of a better natural opportunity than in the former. And since the advantage of such occupancy does not belong to him in particular but to all the people in common, they have a lien upon the product for the value due to the advantage, a lien which is discharged upon payment of the rental value of the land to the State, for the use of the people.

The only other factor in the production of wealth is capital, that is, any wealth used in such

production. It is a secondary factor in that it is a product of the two primary factors, but inasmuch as it is wealth belonging to somebody and not always to the labourer, but sometimes to some other owner who consents to its use on condition that he shall share in the product, it becomes necessary, in order to determine the latter's share, to consider capital as a separate factor in production.

Whenever these three wealth-producing factors, valuable land, labour and capital, enter into the production of any wealth, they contribute to its value in proportion to their respective values as measured in terms of rent, wages and interest. Under just conditions, those that would obtain in a natural market, whoever should make use of all of these factors, and should have to hire all the labour but his own, and to borrow all the capital used, would, after payment of rent, wages and interest, have left of the total value produced so much only as was contributed by his own labour; but would, however, by reason of such payment, become the individual owner of the entire concrete product. If the capital used were his own, he would of course have to pay out only rent and wages, but the proportional distribution according

to the respective values of the different factors would be the same in each and every case.

Such a distribution of wealth, or of its value, would evidently be equitable, nor is it easy to conceive of any other that would be just, or of any other way of arriving at an equitable one. Any distribution to be equitable must necessarily be according to value, which can be determined only in a natural market, where and where alone it is that a just price, the only reliable index of value, whether of land, labour or capital, can be ascertained, and where it is automatically adjusted by a sensitive measurement to be had only through a balancing of the forces of supply and demand. The natural law for the production and distribution of wealth is simply this,—that production, which always includes any necessary exchange, shall be carried on under conditions affording equal access to and use of natural opportunities for human effort or labour, including freedom of contract in the exchange of labour and its products.

Under such conditions, the fact that a man had agreed to accept a certain share of any wealth to whose production he had contributed, or a certain wage or rate of interest, would be *prima facie*

evidence that such share, wage or interest was all to which he was entitled, for he would be subject to no duress but free to do with his labour and capital as he pleased. At present, however, most men are subject to a duress imposed by abuses of civil power, a duress of which they may not be fully aware, but of whose resulting evils there is happily a growing consciousness. But how is the State to remedy those evils, how can it remove the duress, except by discontinuing the abuses? In what other way can it provide for a natural, equitable distribution of wealth? Certainly not by ignoring and losing sight of the natural and only laws by which such distribution can be determined.

For the State to assume the ownership of all the means of production, of all wealth used as capital, would be but an assumption. The ownership of wealth is primarily an individual relation, and can not become collective without the voluntary contractual consent of the individual owner. The State can no more do away with that relation or with the obligations which it imposes upon the members of Society than it can annul the relationship of parent and child and the obligations thereby imposed. It can no more deprive the in-

dividual of the ownership of his property than of his right to produce it. Nor does the individual abandon private ownership of his wealth by using it as capital; he thereby merely exercises the right of control which ownership implies. Individual, private ownership of the wealth of a people, whether used as capital or not, can become collective or public only by express, voluntary consent of its millions of individual owners, a consent which if secured to-day, as it can not be, would in no way affect any ownership of newly beginning wealth-producers of to-morrow. And if the State can not become the owner, it can not justly assume control, of such capital, since to ownership belongs control. Scant benefit would there be to any man in the ownership of wealth over which he had no control.

Through purchase from its individual owners, paying them out of land values, which have been seen to belong to the public, the State, in the exercise of the Public-serving function of government, will become the public, collective owner of all the wealth it can justly control, and had better discharge the manifold obligations and exacting duties of such ownership and control before it assumes an ownership which it can not in the nature

of things acquire, and a control it has and can have no right to exercise.

It may be well to observe in this connection that the State is not the owner, in the property sense of ownership, even of the factor, land, whether valuable or not, for that which no man can so own can not be so owned by all men, by Society, nor by the State. Land is the natural and only opportunity for human existence, whose use belongs by natural relation and right equally to each and every individual of the passing generations of men. Its value, arising from the competition of the people for advantages of location, belongs to them in common, being the value of a use in which they are each and all entitled to enjoyment of an equal share. Neither land nor the value of land is either property or wealth. The value of any land is merely the measure of an obligation devolving upon its holder to account for the value of the advantage of occupying it to the exclusion of others, which he does by transferring to the State wealth of equal value, under the name of rent.

It is to misconception of the nature of property and to consequent interference with the right of property, that prevailing injustice in the distribu-

tion of wealth is largely due. Publicists, and political economists even, not infrequently talk of property as if it were an institution, something established by the State and to be disestablished at will. It is not an institution, but has its being in the nature of things, prior to and independently of any institution or establishment, even of the State itself. The individual precedes the State, which is but an institution which he maintains for the preservation of his rights, including the right of property, rather than for such irresistible and irremediable violation of that right as State control of any part of his wealth, whether used as capital or not, would inevitably involve. Evils arising from disregard of the right of property are not to be remedied by still further disregard and virtual abandonment of it. The sensitive, economic threads that feed the loom of co-operative industry have become snarled and must be untangled before they can be warp or woof of a perfect weaving. Nor will it do either to strain or to compress them to the texture of a set, unyielding fabric. They must maintain vitality of fibre, and lend one another the firm but resilient support of a continuously voluntary and natural interweaving.

Since problems with which the State has any proper concern are such only as arise from conditions due to abuses of its power, it is clear that the conditions and the problems will disappear when and only when the abuses shall have ceased. It is to privilege, which is always special, and necessarily incompatible with equal enjoyment of rights, that are due not only the swollen fortunes of the rich but also the no less swollen misfortunes of the poor, correlative evils caused by the same abuses, and perhaps equally injurious in their effect upon the character of a people. Confronted as they are with contrasts in fortune, to be accounted for on no theory of justice, but nevertheless approved by the State, or apologetically attributed to ways of an inscrutable providence; and living under, and long required patriotically to uphold, institutions and laws which they instinctively know that the State has no more right to establish or enforce than has the mob or any individual member of it; who shall say to what extent a people's innate sense of justice and right may thereby become eventually warped and deadened?

It is sometimes urged that the State should make special effort to promote individual, personal righteousness, from the absence of which the evils

of government are assumed to arise; but in view of the example set by the State itself the wonder is that men are as upright in their dealings with one another and even in public affairs as most of them are. Righteousness means right-way-ness, and civic righteousness consists in the endeavour of the citizen to have civil power used only in the right way, that is, in such way as to wrong nobody. Individual, private wrongs, which sometimes attract so much attention, as indeed they always should, are nevertheless almost negligible, in respect to their evil results, when compared with those committed by the people in their collective, civic capacity. It is to the latter class of wrongs that governmental problems are due, and it is to correction of their causal abuses that the citizen should direct his attention, remembering that however scrupulous he may be in the ordering of his private conduct, he can not be a truly righteous man if he neglects his duty as a citizen.

The citizen should bear in mind, however, in considering problems of popular interest that, notwithstanding such interest in it, a problem may not be really governmental. Unless the evil conditions sought to be remedied are due to some abuse or abuses of civil power, to some govern-

mental fault of omission or commission, the problem, as already seen, although in a sense social, is not civic, and it would be an abuse as well as a waste of civil power for the State to undertake its solution. How to remedy evils resulting from the neglect of individuals to make rational use of their faculties and from their consequent lack of virtues essential to the highest social well-being, is a problem to be solved by men as men and not as citizens, and without resort to civil authority. The State has indeed no authority to act in such behalf, and whenever it assumes to do so, when it attempts, for instance, to prohibit vices involving no infringement of any natural right, no interference with human freedom, it invites official graft and weakens popular respect for legitimate authority. When it shall limit the use of its power to efficient discharge of its proper functions there will doubtless be less of such evils, for the freer men shall be the better will they be, but there never may come a time when they will be equally virtuous, moral or benevolent, or when there will not be some nobly striving to lead their fellows to higher thinking and better living. Enthusiastic leaders in such worthy endeavour will seldom lack the support of sympathetic co-

workers, but however numerous or influential they may become they have no right to compel others to aid them in their benevolent work, as they would by resorting to civil power for its advancement. However beneficent its activities, the State has properly nothing to do with benevolence or generosity. It has nothing with which to be generous, and is concerned only with justice, and with that only for the self-defensive purpose of maintaining an equitable public order.

When that order shall obtain, not only will the problems of government all have been solved, but the ways will be cleared as they never yet have been for the making of whatever progress it is in the nature of mankind to achieve. Human nature has never yet had half a chance, and yet what noble specimens have there been in every age and land. What may we not expect of it when it shall come into its own; when man, no longer the slave of precedent nor the victim of experiment in government, shall establish the orthocratic, or rightly governing State, a State whose activities and the use of whose power shall be limited and intelligently directed to the maintenance of a civil order founded in that reason, justice and freedom which constitute the natural order?